

Exhibitors' and Advertisers' Brief on the Protection of Intellectual Property Rights at TDC Exhibitions

The Hong Kong Trade Development Council (referred to below as “**TDC**”, “**Organizer**”, “**we**”, “**our**” or “**us**”), the statutory body promoting Hong Kong’s international trade, is committed to fostering original design and safeguarding intellectual property rights.

We have on-the-spot procedures at our trade fairs (the “**Fairs**” or “**TDC exhibitions**”) for handling any complaint against any exhibitor (“**Exhibitor**”) and/or advertiser (“**Advertiser**”) that:

- (i) a product, item or material published, displayed, and/or placed by an Exhibitor at the Fairs, or
- (ii) any advertisement published, displayed and/or placed by us for and/or on behalf of an Exhibitor or Advertiser, including but not limited to in (a) our publications (in any media, medium, form and format, whether online and/or offline) (“**Publications**”), (b) our websites, applications, platforms and/or social media accounts (including but not limited to www.hktdc.com and any and all other websites, applications, platforms and/or social media accounts that we may from time to time operate, manage or use) (“**Websites**”), (c) our showcases (including but not limited to (i) printed and/or digital materials, (ii) LED advertisements such as but not limited to lightboxes, TV walls, Exhibitor Location Systems, and lifts and escalator advertisements, (iii) banners and posters, and/or (iv) any other means or manner of advertising, whether online and/or offline, whether existing now or in the future) (“**Showcases**”), and/or for or relating to (d) any products, services or materials featured or promoted in any such Publications, Websites and/or Showcases (as the case may be) (where, for the ease of reference, each of the foregoing items in categories (a) to (d) above will be referred to herein as “**Advertisement**”);

allegedly infringes someone else’s intellectual property rights in relation to or in connection with TDC exhibitions.

These complimentary procedures are not the only way in which complainants can file complaints. Complainants can also file complaints with Hong Kong Customs and Excise Department and/or the Courts of Hong Kong.

These procedures, carried out with our legal advisors (“**Legal Advisors**”), are designed to help establish whether there is a case to answer so that complaints may either be pursued or resolved promptly.

Our aim is as much to protect the rights of individual Exhibitors and Advertisers concerned to be promptly cleared of unfounded complaints as it is the responsibility of the Exhibitors and Advertisers to uphold their obligations to respect the intellectual property rights of others.

In this respect, the attention of all Exhibitors is drawn to Clause 43 of the conditions of participation, setting out rights and obligations of exhibitors at TDC exhibitions, which is set out below for ease of reference:

“The Exhibitor warrants that the exhibits and packages thereof and the Publicity Material or any other part of the display on the Stand do not in any way howsoever violate or infringe any third party’s rights including all intellectual property rights including but not limited to trade marks, copyright, designs, names, and patents whether registered or otherwise. The Exhibitor agrees to fully indemnify the Organizer and its agents, representatives, contractors and employees against all costs, expenses and damages arising from any third party’s claim of infringements by the Exhibitor and/or the Organizer and/or the latter’s agents, representatives, contractors or employees of such third party’s rights.”

The attention of all Advertisers is drawn to Clauses 2 and 3 of the terms and conditions enclosed in the HKTDC Advertising Order Contract, pursuant to which the Advertiser, amongst other things, warrants and undertakes that no third party intellectual property rights will be infringed as a result of the publication of any Advertisement, and it has obtained all necessary consents and licenses for the Advertisement. The Advertiser also undertakes and agrees to fully and unconditionally indemnify and hold TDC and its partners, agents, affiliates, directors, representatives, contractors, officers, employees and users harmless against any allegations, claims, damages, penalties, losses, costs, fees (including legal fees) or any expenses howsoever incurred as a result of or in connection with, amongst others, any breach or alleged breach of representation, warranty or undertaking given by the Advertiser, any infringement or alleged infringement of intellectual property rights, including but not limited to patents, registered designs, copyrights or trade mark infringement arising as a result of the publication of any Advertisement, and/or any third party claims whatsoever arising in or derived from or as a direct or indirect result of the publication of any Advertisement by the Advertiser, including without limitation in relation to its goods and/or services.

The Exhibitor and/or Advertiser each agree that it shall comply with the then effective version of the "Exhibitors' and Advertisers' Brief on the Protection of Intellectual Property Rights at TDC Exhibitions" ("**Exhibitors' and Advertisers' Brief**") that the Organizer may issue and update from time to time, including but not limited to abiding by any complaint procedures and penalties stated in the Exhibitors' and Advertisers' Brief, whether as a Complainant of infringement of intellectual property right or as a party subject to any such complaint. If the Exhibitor or Advertiser fails or refuses to abide by any of the terms and conditions of the Exhibitors' and Advertisers' Brief, the Organizer shall have the sole and absolute discretion to:

- (a) ban the Exhibitor and any of its representatives, parent, associate, affiliated and/or subsidiary companies from any or all future TDC exhibitions and/or to further ban any representatives of the Exhibitor in question from entering the venue of the current TDC exhibition in which the Exhibitor is participating; and/or
- (b) decline to publish, or suspend, alter/amend or remove any Advertisements and/or prohibit the Exhibitor or Advertiser concerned from placing, displaying or publishing Advertisements on any Publications, Websites and/or Showcases at or in connection with any TDC Exhibition.

If a complainant ("**Complainant**") files a complaint with the Organizer in accordance with the Exhibitors' and Advertisers' Brief and requests the Organizer to take action against an Exhibitor or Advertiser, the Complainant agrees to hold the Organizer, its agents, representatives, contractors and employees (including but not limited to their Legal Advisors) harmless and to fully indemnify each and every one of them against any and all liabilities, losses, costs (including but not limited to legal costs), expenses and damages of any nature whatsoever incurred or suffered by any of them as a result of, or in connection with, and/or however arising from, any action that the Organizer, its agents, representatives, contractors or employees (including but not limited to their Legal Advisors) may take in reliance of or as result of such complaint filed by the complainant, or any other requests, directions or instructions made or given by the complainant pursuant to such complaint.

The Exhibitor, Advertiser and Complainant each agree not to take any legal action or make any claim or demand against the Organizer, its agents, representative, contractors or employees (including but not limited to their Legal Advisors) in relation to or arising out of such complaint and any actual or alleged infringement of intellectual property rights.

Procedures

A. Item displayed or exhibited by an Exhibitor at a TDC exhibition

1. If you have any complaint involving infringement of your intellectual property rights, this should be reported to the Fair Management Office, where it will be handled by TDC Fair Officials and the Legal Advisors engaged by TDC.
2. If you receive a complaint at your booth, you should refer the Complainant to the Fair Management Office.
3. Both the documents attached to the Exhibitors' and Advertisers' Brief and the Legal Advisors on site will specify the kind of documents and other evidence necessary to support a complaint.
4. If the TDC and the Legal Advisors are satisfied, on the basis of the documents provided, that the Complainant's intellectual property rights are valid and have been infringed by the display of the Exhibitor's product or material in dispute at the Fair, a TDC Fair Official will visit the booth involved.
5. The TDC and the Legal Advisor will also visit the Website to check whether the product or any material in dispute is displayed on the said Website. If so, the TDC has the sole and absolute discretion to disable the link or otherwise take down / remove the disputed product or material from the Organizer's website in accordance with the TDC's *Terms & Conditions for Printed Advertisement & Online Promotion* without further notice.
6. As the organizer of the TDC exhibitions, TDC has the power to immediately take at least 3 photographs of the product or any material in dispute.
7. The Exhibitor will be asked to remove the product or material in dispute immediately from display and not to trade in it for the remainder of the Fair unless he/she can adduce evidence to show to the satisfaction of the TDC and the Legal Advisors that he/she has the right to deal in such product or material. He/she will also be required to sign an undertaking immediately to this effect. A copy of the signed undertaking and one copy of the photograph will be given to the Complainant and the Exhibitor. A further copy of the signed undertaking together with one copy of the photograph will be retained by the TDC for its records.
8. If the TDC is notified by the Customs and Excise Department that it is investigating possible violation of copyright and/or trademark by an Exhibitor at the Fair, the Exhibitor will be required to immediately remove the product or material which is under investigation for the remainder of the Fair.
9. If the Exhibitor fails or refuses to co-operate with TDC under paragraphs 6 and/or 7 and/or 8 above, TDC shall have the right and power, in its sole and absolute discretion, to ban the Exhibitor and any of its representatives, parent, associate, affiliated and/or subsidiary companies, from any or all future TDC exhibitions.
10. TDC staff will visit any booth in respect of which a complaint has been received and accepted by TDC and the Legal Advisors, in order to reconfirm that the disputed product or material is no longer on display and is not being traded. If the Exhibitor is found to have breached its undertaking not to display or deal with the product or material in dispute during the remaining period of the Fair, TDC shall have the right and power, at its sole and absolute discretion, to immediately terminate the right of participation in the Fair in question of the Exhibitor and any of its representatives, parent, associate, affiliated and/or subsidiary companies without any refund of the participation fee already paid, and to ban the Exhibitor and any of its representatives, parent, associate, affiliated and/or subsidiary companies from any or all future TDC exhibitions.

B. Materials featured in any Advertisement displayed and/or published at a TDC exhibition, the TDC's Publications, Websites and/or Showcase for, in relation to or in connection with the TDC exhibition

1. If you have any complaint involving infringement of your intellectual property rights, this should be reported to the Fair Management Office, where it will be handled by TDC Fair Officials and the Legal Advisors engaged by TDC.
2. If you are also an Exhibitor and receive a complaint at your booth, you should refer the Complainant to the Fair Management Office.
3. Both the documents attached to the Exhibitors' and Advertisers' Brief and the Legal Advisors on site will specify the kind of documents and other evidence necessary to support a complaint.
4. If the TDC and the Legal Advisors are satisfied, on the basis of the documents provided, that the Complainant's intellectual property rights are valid and have been infringed by the Advertisement in dispute at the TDC exhibition, the Advertiser will be notified.
5. As organizer of the TDC exhibitions, TDC has the power to immediately take at least 3 photographs of the any material in dispute.
6. The Advertiser will have the opportunity to adduce evidence to show to the satisfaction of the TDC and the Legal Advisors that it has the right to place, display or publish the Advertisement complained of within 24 hours from the time of such notification. If the Advertiser fails to do so and/or if the TDC and the Legal Advisors are not satisfied that the Advertiser has the right to place, display or publish the Advertisement complained of, TDC shall have sole and absolute discretion to determine the appropriate course of action, including but not limited to the immediate removal, take-down, suspension and/or altering (e.g. by covering up the materials featured in the Advertisement which are alleged to be infringing in the complaint) of the Advertisement complained of.
7. The Advertiser will also be required to sign an undertaking immediately to this effect. A copy of the signed undertaking and one copy of the photograph will be given to the Complainant and the Advertiser. A further copy of the signed undertaking together with one copy of the photograph will be retained by the TDC for its records.
8. If the TDC is notified by the Customs and Excise Department that it is investigating possible violation of copyright and/or trademark by an Advertiser at the Fair, the TDC will be required to immediately remove the Advertisement and any other relevant material which is under investigation for the remainder of the Fair.
9. If the Advertiser fails or refuses to co-operate with TDC under paragraphs 6 and/or 7 above, TDC shall have the right and power, in its sole and absolute discretion, to prohibit the Advertiser and any of its representatives, parent, associate, affiliated and/or subsidiary companies from placing, displaying or publishing Advertisements on the TDC website and in any publications displayed or published at any or all future TDC exhibitions, and/or to further terminate the HKTDC Advertising Order Contract with no refund payable.
10. If the Advertiser is found to have breached its undertaking not to display, publish and/or otherwise deal in or with the advertising material(s) in dispute during the remaining period of the Fair, TDC shall have the right and power, at its sole and absolute discretion, to immediately terminate the right to advertise in the Fair in question of the Advertiser and any of its representatives, parent, associate, affiliated and/or subsidiary companies without any refund of the advertising fee already paid; to ban the Advertiser and any of its representatives, parent, associate, affiliated and/or subsidiary companies from advertising and/or participating in any or all future TDC exhibitions; and to further terminate the HKTDC Advertising Order Contract with no refund payable.

Penalties

An Exhibitor and/or Advertiser and/or any of its representatives, parent, associate, affiliated and/or subsidiary companies may, in the sole and absolute discretion of the TDC, be banned from any or all future participation (including but not limited to the right to advertise) in TDC exhibitions if:

- a. after TDC has received and accepted a complaint against the Exhibitor or Advertiser, the Exhibitor or Advertiser fails or refuses to:
- allow TDC to immediately take 3 photographs of the product, material or Advertisement in dispute;
 - sign an undertaking immediately in favour of TDC in a form provided by TDC:
 - (i) indicating its decision whether to remove or continue to display the product or material in dispute; or
 - (ii) in the case of an Advertisement, acknowledging TDC's right to remove the Advertisement in dispute, or adducing evidence to the TDC to show to the satisfaction of the TDC and the Legal Advisors that it has the right place, display or publish the Advertisement complained of;

OR

- b. if the Exhibitor refuses to remove from display the product or material in dispute and a legal action brought against the Exhibitor in relation to the display of the product or material in dispute is upheld by a Court in Hong Kong, notwithstanding that the Exhibitor has signed an undertaking in favour of TDC and allowed TDC to take photographs of the product or material in dispute during the Fair;

OR

- c. the Exhibitor removes the product or material in dispute immediately from display and signs an undertaking provided by TDC not to display or deal with any such item for the rest of the Fair period and/or the Advertiser signs the undertaking to acknowledge the TDC's right to remove the Advertisement in dispute, but is subsequently found to be in breach of such an undertaking; in which case the TDC shall, in addition, be entitled to immediately terminate the Exhibitor's and/or Advertiser's right of participation and/or advertisement for the rest of the Fair period without refund of any participation and/or advertisement fee already paid by the Exhibitor and/or Advertiser;

OR

- d. there are two or more court rulings from a Court in Hong Kong against the Exhibitor and/or Advertiser confirming its infringement of intellectual property rights of any Complainant(s) during two consecutive fair periods, notwithstanding that the Exhibitor and/or Advertiser has cooperated with TDC during the Fairs, amongst others, by removing the disputed product or material from display;

OR

- e. within two consecutive fair periods there are four or more valid complaints filed against the same exhibitor and which have been accepted by the TDC and the Legal Advisors:
- by more than one complainant in respect of different intellectual property rights; or
 - by the same complainant in respect of different products or material items;

OR

- f. within any one year period there are two or more valid complaints filed against the same Advertiser and which have been accepted by the TDC and the Legal Advisors;

OR

- g. the Exhibitor and/or Advertiser is accused or convicted of any criminal offence relating to infringement of intellectual property rights or violation of intellectual property-related laws and regulations.

Penalties for intellectual property-related criminal offences

Copyright Ordinance (Chapter 528 the Laws of Hong Kong)

It is a criminal offence to make or deal in articles that infringe copyright. The Copyright Ordinance sets out in detail the different activities that constitute criminal offences. A person who commits such a criminal offence is liable to a fine of HK\$50,000 in respect of each infringing copy and to 4 years' imprisonment or a fine of HK\$500,000 and 8 years' imprisonment depending on the type of infringing activity carried out.

Trade Descriptions Ordinance (Chapter 362 the Laws of Hong Kong)

Under the Trade Descriptions Ordinance, any person who:-

- (i) applies a false trade description to any goods, or any service supplied or offered to be supplied to a consumer;
- (ii) supplies or offers to supply any goods, or any services to consumers, to which a false trade description is applied; or
- (iii) has in his possession for sale, or for any purpose of trade or manufacture, any goods to which a false trade description is applied commits a criminal offence.

Further, any person who forges any registered trade mark or falsely applies to any goods any trade mark so nearly resembling a registered trade mark as to be calculated to deceive also commits a criminal offence.

Further, any person who engages in relation to a consumer any unfair trade practices (including but not limited to any commercial practice that is a misleading omission, or is aggressive, or constitutes bait advertising, bait and switch, or wrongly accepting payment) also commits a criminal offence.

Any person who commits such an offence under the Trade Descriptions Ordinance may be liable -

- a. on conviction on indictment, to a fine of \$500,000 and to imprisonment for 5 years; and
- b. on summary conviction, to a fine of \$100,000 and to imprisonment for 2 years.

Documents Required as Evidence of Subsistence and Ownership of Intellectual Property Rights

A. Copyright

Option 1: An affidavit of copyright ownership and subsistence made by the owner of the copyright work pursuant to Section 121 of the Copyright Ordinance (Cap. 528 of Laws of Hong Kong) dated within one (1) year of the date of the complaint - for reference purposes, a template affidavit is available for download at: http://tpwebapp.hktdc.com/fair/Multi_fairs/pdf/Copyright/2.pdf

OR

Option 2: If the Complainant owns and provides its original evidence for all of the below items 4-6 as evidence, and provide information and evidence of all of the following:-

1. date and place that the copyright work was first made or first published;
2. name of the author of the copyright work;
3. name of the owner of the copyright work;
4. original copyright work (e.g. design drawings, sketches, etc) - **NOTE:** copies, including photocopies or computer copies will not be accepted;
5. original evidence on proof of ownership of the copyright work - for example, in the event the author of the copyright work is an employee of the Complainant, that employee's contract of employment; or in the event the author of the copyright work is not the Complainant nor its employee, copyright assignment evidencing the assignment of copyright from the author to the Complainant; and
6. original evidence of the date of (i) the first sale of the product/article to which the copyright work relates (e.g. invoices, shipping documents, etc) or (ii) the first publication of the copyright work, and such evidence must clearly identify the product/article in question

For any complaint made under Option 2, complainants will also be required to complete, provide and confirm all the above information and evidence in a standard-form checklist (which is available for download at http://tpwebapp.hktdc.com/fair/Multi_fairs/pdf/Copyright/1.pdf or to be provided by TDC at the time of the complainant's filing of the complaint). If any of the required information and/or evidence is missing or otherwise incomplete, or if any of the information and/or evidence provided are, in TDC's opinion, unreliable, conflicting, false or inaccurate in any manner, the relevant complaint will not be processed or will be rejected.

B. Trade Mark

1. Original or certified copy of a valid Certificate of Registration of Trade Mark in **Hong Kong** including any renewal certificates or proof of renewal (**NOTE:** foreign registrations will not be accepted); and
2. An up-to-date printout of the Trade Mark Records as available on the Hong Kong Intellectual Property Department's Online Search System, showing the registration details of the trade mark and printed within one (1) week of the date of the complaint.

C. Registered Design

1. Original or certified copy of a valid Certificate of Registration of Design in **Hong Kong** including any renewal certificates or proof of renewal (**NOTE:** foreign registrations will not be accepted); and
2. An up-to-date printout of the Register of Designs as available on the Hong Kong Intellectual Property Department's Online Search System, showing the registration details of the registered design and printed within one (1) week of the date of the complaint.

D. Patent

1. Original or certified copy of a valid Certificate of Grant of Patent in **Hong Kong** including any renewal certificates or proof of renewal (**NOTE**: foreign registrations will **not** be accepted);
2. If the patent relied on is a short-term patent, either one of the following in respect of the patent:
 - a) Original or certified copy of a Certificate of Substantive Examination in Hong Kong;
 - b) Original or certified copy of a request for substantive examination filed with the Hong Kong Registrar of Patents, together with a written confirmation that the request has not yet been determined, rejected or terminated; or
 - c) Original or certified copy of a certificate granted by the Hong Kong court certifying that the claims of the patent sought to be relied on by the Complainant is valid.
3. A written opinion from the following individual(s) stating that the Hong Kong patent is valid and infringed by the display of the Exhibitor's product or material in dispute during the Fair with clear and specific reference to the alleged infringing product in question:
 - a) A certified or registered patent agent or attorney so certified or registered in a jurisdiction outside Hong Kong and providing patent agency services in Hong Kong; and/or
 - b) Hong Kong qualified lawyer experienced in the patents field.

And any other evidence that the TDC and the Legal Advisors may require depending on the specific facts of the case.

Documents Required as Evidence of the Advertiser's Right to Place, Display or Publish the Advertisement Complained of

1. Documents required as evidence of subsistence and Advertiser's ownership of the relevant intellectual property rights (see the requirements for each type of intellectual property rights in A, B, C and/or D above (as applicable)); or
2. Original or certified copy of valid agreement(s) or license(s) from the intellectual property rights owner authorizing or granting the Advertiser the right to use, publish, display and/or otherwise deal in or with the relevant works, marks, designs, and/or patents featured in the Advertisement(s) complained of.

And any other evidence that the TDC and the Legal Advisors may require depending on the specific facts of the case.

* The TDC reserves the right to amend any contents in the Exhibitor's and Advertisers' Brief (including without limitation the documents required for filing a complaint) at any time without prior notice.

In the event of any differences between the English and Chinese versions of this document, the English version shall prevail.

香港貿易發展局展覽會保護知識產權措施-參展商及廣告商須知

香港貿易發展局(以下簡稱為「**本局**」或「**主辦機構**」)是專責促進香港對外貿易的法定機構，致力推動原創設計及保護知識產權。

本局訂有一套在展覽會（「**展覽**」或「**本局展覽**」）現場內，即場處理任何針對參展商及/或廣告商、有關本局展覽或與之有關聯的侵權投訴的程序，而該等投訴須針對：

- (i) 參展商在展覽中發布、展示及/或放置被指稱侵犯他人知識產權的產品、物品或物料；或
- (ii) 本局為參展商或廣告商，或以他們的名義，發布、展示及/或放置，而被指稱侵犯他人知識產權的廣告，包括但不限於在（a）在本局的刊物（不論任何媒體、媒介、形式及格式，亦不論線上或線下）（「**刊物**」）的廣告、（b）在本局的網站、應用程式、平台及/或社交媒體帳戶（包括但不限於 www.hktdc.com，以及本局可能不時營運、管理及使用的任何及所有其他網站、應用程式、平台及/或社交媒體帳戶）（「**網站**」）的廣告、（c）在本局的展示物（包括但不限於（i）印刷品及/或數碼檔案、（ii）LED廣告，例如但不限於燈箱、電視幕牆、參展商位置系統，以及在升降機內或於扶手電梯上的廣告，（iii）橫幅及海報，及/或（iv）不論線上或線下、現存或將來、以任何其他方法或方式進行的廣告宣傳）（「**展示物**」）內的廣告、及/或（d）為了於任何上述刊物、網站及/或展示物內（視情況而定），被列為精選推廣或宣傳的任何產品、服務或物料，或與之有關的廣告（為便於參考，以上類別（a）-（d）所述的每項物品將於本須知中稱為「**廣告**」）。

此免費的投訴程序並不是投訴人唯一的投訴方法。投訴人亦可以向香港海關及/或香港法院提出投訴。

此投訴程序由本局的駐場法律顧問（「**法律顧問**」）處理，務求幫助確立被投訴人是否須就有關投訴作出答辯，繼而決定有關投訴應否被繼續跟進，還是被從速解決。

本局訂定這套程序的目的是為了協助有關參展商及廣告商從速清理毫無根據的投訴，致力保障他們的權利，因為履行尊重他人的知識產權的義務，是參展商及廣告商的責任。

茲促請所有參展商必須遵守《貿易發展局展覽會參展規則》中的第 43 條。該條列明參展商於本局展覽中的權利與責任；為便於參考，條款內容如下：

「參展商保證展品及產品包裝，以及宣傳品或攤位的任何展示部分，在任何各方面均沒有違反或侵犯任何第三者的權利，包括所有知識產權，其中包括但不限於已註冊或未註冊的商標、版權、外觀設計、名稱及專利；並同意悉數賠償主辦機構以及其代理、代表、承包商和僱員因第三者指控參展商及/或主辦機構及/或後者的代理、代表、承包商和僱員侵權而招致的費用、開支及索償。」

所有廣告商須注意《香港貿易發展局廣告訂購合約》內條款及條件中的第 2 及 3 條。根據這些條款，廣告商所提供的各項保證及承諾包括其保證及承諾任何廣告的發布不會侵犯任何第三方的知識產權，以及它已經取得該廣告所需的所有同意及許可。廣告

商亦承諾及同意保證本局及其合夥人、代理、聯屬成員、董事、代表、承辦商、人員、僱員及用戶免受因任何違反或被指稱違反廣告商所作出的陳述、保證或承諾、任何侵犯或被指稱侵犯知識產權（包括但不限於因出版任何廣告而引致的專利、註冊外觀設計、版權或商標的侵犯）所引致，及/或因廣告商出版任何廣告（包括但不限於有關其貨物及/或服務的廣告）所引起、衍生、或直接或間接地導致的第三方申索，或與之有關聯的任何指稱、申索、損害、罰款、損失、成本、費用（包括法律費用）及不論如何招致的開支所損害，並承諾及同意對上述各方就上述損害作出完全及無條件的彌償。

每位參展商及/或廣告商同意，他們須遵守當時生效的《香港貿易發展局展覽會保護知識產權措施：參展商及廣告商須知》（「**本須知**」）（而主辦機構可能會不時發出新的須知及更新現行須知），包括但不限於遵守於本須知內列明的任何投訴程序及侵權罰則，不論該參展商或廣告商是作為知識產權被侵犯的投訴人，或是作為被投訴人。假如參展商或廣告商未能或拒絕遵守本須知內的任何條款及條件，主辦機構有唯一及絕對的酌情權：

- (a) 以禁止參展商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司參加參加本局以後所舉辦的任何或所有展覽，及/或進一步禁止該參展商的任何代表進入參展商當時正在參展的展覽會場；及/或
- (b) 以拒絕發布、暫停展示、修改/修訂或移除任何廣告，及/或禁止有關參展商或廣告商於本局展覽內或與之有關的任何刊物、網站及/或展示品上，放置、展示或發布廣告。

假如投訴人（「**投訴人**」）按照本須知向主辦機構提出投訴，並要求主辦機構對參展商或廣告商採取行動，投訴人必須同意保證主辦機構、其代理、代表、承包商及僱員（包括但不限於他們的法律顧問）免受任何損害，並對上述各方每位因依據或基於投訴人所提出的投訴、或投訴人根據該投訴所作出的任何其他要求、指示或指令而採取行動，進而導致、與之有關聯及/或不不論如何引起的任何性質的任何及所有責任、損失、費用（包括但不限於法律費用）、開支及損害賠償。

每位參展商、廣告商及投訴人同意，不會向主辦機構及其代理、代表、承包商或僱員（包括但不限於他們的法律顧問）採取任何與有關投訴及任何實際或被指稱侵犯知識產權的事件相關、或由之引致的法律行動，或提出任何索償或要求。

處理投訴程序

A. 參展商於本局展覽內展示或展覽的物品

1. 假如閣下欲提出有關侵犯閣下知識產權的投訴，閣下須向主辦機構的展覽管理辦事處報告，而本局的展覽負責人員及所聘請的法律顧問將會處理有關投訴。
2. 假若閣下在攤位內收到投訴，閣下應轉介該投訴人到展覽管理辦事處提出有關投訴。
3. 本須知隨附的資料文件及駐場法律顧問皆會指明支持侵權投訴所需的文件種類及其他證據。

4. 假如本局及法律顧問基於投訴人所提供的文件，信納投訴人的知識產權為有效，而且被參展商在展覽內所展示的涉事產品或物料所侵犯，本局展覽負責人員會前往涉事攤位視察。
5. 本局及法律顧問亦會瀏覽本局的網站，檢查受爭議的產品或任何物品有否於上述網站上展示。如有發現，本局擁有唯一及絕對的酌情權，根據本局之《網上推廣條款及條件》，在不作另行通知的情況下，停用該網址，或將受爭議的產品或物品從主辦機構的網站下架/移除。
6. 作為展覽的主辦機構，本局有權即時為受爭議的產品或任何物品拍攝最少三張照片。
7. 除非有關參展商能向本局及法律顧問提出證據，以顯示他/她有權就有關產品或物料進行交易，並使他們信納，否則該參展商會被要求立即將正在展示中的受爭議產品或物品移除，並禁止在餘下展期展示有關該產品/物料。參展商亦須立即簽字為上述事宜作出承諾。本局會將已簽署的承諾書及照片的副本交予有關的投訴人及參展商，並會自行保留一份已簽署的承諾書及照片的副本作為記錄。
8. 假如本局收到香港海關通知，指香港海關正在調查有關在展覽內的參展商的懷疑侵犯版權及/或商標案件，本局將要求該參展商立即移除正接受調查的產品或物品，並不得在餘下展期內展示它們。
9. 假如有關參展商未能按上述第 6、7 及/或 8 條與本局合作，或拒絕與本局合作，本局有權利及權力，按其唯一及絕對的酌情權，禁止該參展商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司參加本局以後所舉辦的任何或所有展覽。
10. 本局職員會定期前往被投訴（而有關投訴被本局及法律顧問所接納）的攤位視察，以再次確保有關參展商不再展示或就受爭議的產品或物品進行交易。假如參展商被發現違反承諾（即於餘下展期內不再展示或處理受爭議的產品及物料），本局有權利及權力，按其唯一及絕對的酌情權，即時取消該參展商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司是次展覽的參展權，並毋須退還已收取的參展費，並禁止該參展商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司參加本局以後所舉辦的任何或所有展覽。

B. 於任何爲了本局展覽，或與之有關或有關聯，而在本局展覽、刊物、網站及/或展品內展示或發布的廣告中出現的物品

1. 假如閣下欲提出有關侵犯閣下知識產權的投訴，閣下須向主辦機構的展覽管理辦事處報告，而本局的展覽負責人員及所聘請的法律顧問將會處理有關投訴。
2. 假若閣下同時是參展商，並在閣下的攤位內收到投訴，閣下應轉介該投訴人到展覽管理辦事處提出有關投訴。
3. 本須知隨附的資料文件及駐場法律顧問皆會指明支持侵權投訴所需的文件種類及其他證據。
4. 假如本局及法律顧問基於投訴人所提供的文件，信納投訴人的知識產權為有效，而且被受爭議的廣告所侵犯，廣告商會收到通知。
5. 作為展覽的主辦機構，本局有權即時為受爭議的任何物品拍攝最少三張照片。
6. 廣告商在收到上述通知起的 24 小時內，享有向本局及法律顧問提出證據的機會，以顯示它有權放置、展示或發布被投訴的廣告，並使其信納。假如廣告商未能在時限內提出證據，及/或本局及法律顧問並不信納廣告商有權放置、展示或發

布該廣告，本局擁有唯一及絕對的酌情權去決定合適的行動，包括但不限於即時移除、下架、暫停展示及/或修改被投訴的廣告（例如將該廣告內被指稱侵權的物品遮蓋）。

7. 廣告商亦須立即簽字為上述事宜作出承諾。本局會將已簽署的承諾書及照片的副本交予有關的投訴人及廣告商，並會自行保留一份已簽署的承諾書及照片的副本作為記錄。
8. 假如本局收到香港海關通知，指香港海關正在調查有關在展覽內的廣告商的懷疑侵犯版權及/或商標案件，本局將要求該廣告商立即移除該廣告及任何其他正接受調查的相關物品，並不得在餘下展期內展示它們。
9. 假如有關廣告商未能按上述第 6 及/或 7 條與本局合作，或拒絕與本局合作，本局有權利及權力，按其唯一及絕對的酌情權，禁止該廣告商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司，於本局網站，以及本局以後所舉辦的任何或所有展覽內展示或發布的任何刊物，放置、展示或發布廣告，及/或進一步終止《香港貿易發展局廣告訂購合約》，並毋須退還已收取的費用。
10. 假如廣告商被發現在餘下展期內違反其承諾（即不再展示、發布及/或以其他方式處理受爭議的廣告宣傳物），本局有權利及權力，按其唯一及絕對的酌情權，即時取消該廣告商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司是次展覽的廣告宣傳權，並毋須退還已收取的廣告費，並禁止該廣告商及其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司在本局以後所舉辦的任何或所有展覽中進行廣告宣傳，及/或參加該些展覽，及進一步終止《香港貿易發展局廣告訂購合約》，並毋須退還已收取的費用。

侵權處罰

本局能按照其唯一及絕對酌情權，在下列任何一種情況下，禁止參展商及/或廣告商，及/或其任何代表、母公司、相聯公司、聯屬公司及/或附屬公司參加本局以後所舉辦的任何或所有展覽（包括但不限於廣告宣傳的權利）：

- a. 在本局收到及接納針對參展商或廣告商的侵權投訴後，該參展商或廣告商未能或拒絕：
 - 立即容許本局職員為受爭議的產品、物料或廣告拍攝三張照片；或
 - 應本局要求立即簽署本局提供的承諾書：
 1. 註明它決定移除或決定繼續展示受爭議的產品或物料；或
 2. 如果該投訴涉及廣告，承認本局移除該受爭議廣告的權利，或向本局提出證據，以顯示它有權放置、展示或發布被投訴的廣告，並使本局及法律顧問信納該些證據；

或

- b. 該參展商雖然已應本局要求簽署承諾書，以及讓本局職員在展覽期間為受爭議的產品或物品拍照，但它拒絕移除正在展示中的受爭議產品或物料，而當該參展商因展示該受爭議產品或物料而被控告時，香港法庭裁定申索成功；

或

- c. 參展商雖然立即移除正在展示中的受爭議產品或物料，並已簽署本局提供的承諾書，承諾在餘下展期不再展示或處理該物品，及/或廣告商已簽署承諾書承認本局移除該受爭議廣告的權利，但該參展商或廣告商其後被發現違反承諾。在此情況下，本局更有權即時終止該參展商及/或廣告商在餘下展期內參加展覽及/

或進行廣告宣傳的權利，並毋須退還已從該參展商及/或廣告商收取的參展費及/或廣告費；

或

- d. 參展商及/或廣告商雖然在展覽舉行期間與本局合作，包括但不限於移除正在展示中的受爭議產品或物料，但該參展商及/或廣告商在連續兩屆展期中，遭香港法庭最少兩度裁定侵犯了任何投訴人的知識產權；

或

- e. 同一名參展商在連續兩屆展覽期中，最少四度被超過一名投訴人就不同的知識產權或被同一名投訴人就不同產品或物品投訴，而該些投訴皆為有效及被本局及法律顧問所接納；

或

- f. 同一名參展商在任何一年內，最少兩度被投訴，而該些投訴皆為有效及被本局及法律顧問所接納；

或

- g. 參展商及/或廣告商被控或被判觸犯任何有關侵犯知識產權或違反知識產權有關法律或法規的刑事罪行。

有關知識產權的刑事罪行之刑罰

版權條例(香港法例第 528 章)

任何人製造或處理侵犯版權之物品，即屬犯罪。版權條例已詳細列明可構成該等刑事罪行之各類行為。任何干犯有關罪行之人士可就每份侵犯版權複製品被處罰款港幣五萬元及監禁四年，或被處罰款港幣五十萬元及監禁八年，視乎有關侵權行為的性質而定。

商品說明條例(香港法例第 362 章)

根據商品說明條例，任何人士：

1. 將虛假商品說明應用於任何貨品或任何向消費者提供或要約提供的服務；
2. 供應或要約供應已應用虛假商品說明的貨品、或向消費者提供或要約提供已應用虛假商品說明的服務；或
3. 管有任何已應用虛假商品說明的貨品作售賣或任何商業或製造用途，

即屬犯罪。

再者，任何人如偽造任何註冊商標或將任何商標，或將任何與某一商標極為相似而相當可能會使人受欺騙的商標，以虛假方式應用於任何貨品，亦屬犯罪。

另外，任何商戶如就任何消費者作出任何不良營商手法(包括但不限於任何屬誤導性遺漏的營業行為、具威嚇性的營業行為、或構成餌誘式廣告宣傳、先誘後轉銷售行為或不當地就產品接受付款的營業行為)，即屬犯罪。

任何干犯商品說明條例中有關罪行之人士可被：

- | |
|---|
| <ol style="list-style-type: none">1. 一經循公訴程序定罪，可被處罰款港幣五十萬元及監禁五年；及2. 一經循簡易程序定罪，可被處罰款港幣十萬元及監禁兩年。 |
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證明知識產權的存在及擁有權的所需文件證據

A. 版權

途徑 1: 版權作品的版權擁有人在被投訴前的一年內，根據版權條例（香港法例第 528 章）的第 121 條所作出，並證明有關版權的存在及其擁有權之誓章。誓章的範本可於 http://tpwebapp.hktdc.com/fair/Multi_fairs/pdf/Copyright/2.pdf 下載，以供參考

或

途徑 2: 若投訴人擁有並能提交下列第 4-6 項的所有證據正本作舉證，以及提交下列所有資料及證據：

1. 版權作品的首次創作或首次發表的日期和地點；
2. 版權作品的作者名稱；
3. 版權作品的擁有人名稱；
4. 版權作品的原作正本（例如設計圖樣、草圖等）- **註：**任何副本，包括影印本或電腦副本，均不會被接受；
5. 證明版權作品之擁有權的證據正本 – 例如若版權作品的作者是投訴人的僱員，則須提供僱傭合約；或倘若版權作品的作者並非投訴人或其僱員，則須提供證明作者向投訴人轉讓版權的版權轉讓書；及
6. (1)可證明首次出售有關版權作品的產品/物品之日期的證據正本（如發票、貨運文件等），或(2)可證明首次發布有關版權作品之日期的證據正本，而該證據必須清楚指明該產品/物品。

就途徑 2 作出之投訴而言，投訴人亦須在文件證據清單（可於 http://tpwebapp.hktdc.com/fair/Multi_fairs/pdf/Copyright/1.pdf 下載，或於投訴人呈交投訴時，由本局提供）上填寫、提供及確認上述所有資料及證據。假如任何所需資料及/或證據有所缺失或不完整、或倘若本局認為任何所提交的資料及/或證據是在任何方面不可信、相互矛盾、虛假或不準確，有關投訴將不被處理或被拒絕。

B. 商標

1. 有效的香港商標註冊證書正本或核證副本，包括續期證書或續期證明 (**註：**任何非香港的註冊均不會被接受)。
2. 香港知識產權署網上檢索系統上最新的商標記錄列印本，而該列印本須顯示該商標的註冊詳情，及於投訴日前的一（1）星期內打印。

C. 外觀設計

1. 有效的香港外觀設計註冊證書正本或核證副本，包括續期證書或續期證明 (**註：**任何非香港的註冊均不會被接受)。

2. 香港知識產權署網上檢索系統上最新的外觀設計註冊記錄列印本，而該列印本須顯示該外觀設計的註冊詳情，及於投訴日前的一（1）星期內打印。

D. 專利

1. 有效的**香港**專利證書正本或核證副本，包括續期證書或續期證明（註：任何非香港的註冊均不會被接受）；
2. 假如投訴人的投訴所依據的專利是短期專利，下列任何一項有關該專利的證據：
 - a) 於香港進行的實質審查證明書正本或核證副本；
 - b) 向香港專利註冊處處長提交、有關對該專利進行實質審查的請求，連同一份書面確認，指該請求尚未被終結、拒絕或終止；或
 - c) 由法院批給的證明書正本或核證副本，核證法院裁斷投訴人所依據的專利申索是有效的。
3. 由下列人士所發出的書面意見書，指投訴人於香港的專利為有效，而且因參展商透過展示受爭議的產品或物品，而被侵犯；而該意見書清楚及明確地指明被指稱侵權的產品或物品之詳情：
 - a) 已於香港以外的管轄區核證或註冊，並在香港提供專利代理服務的核證或註冊專利代理人；及/或
 - b) 於專利方面有經驗的香港合資格律師。

以及由本局或法律顧問因應案件的實際情況而要求提供的任何其他證據。

證明廣告商放置、展示或發布被投訴的廣告的所需文件證據

1. 證明有關知識產權的存在及廣告商的擁有權的所需文件證據（見上述 A，B，C，D 部中每類知識產權的要求（如適用））；或
2. 有效合約或許可正本或核證副本，以證明知識產權擁有人已授權，或授予該廣告商使用、發布、展示，及/或以其他方式交易或處理在被投訴的廣告中展示的相關作品、商標、外觀設計，及/或專利的權利。

以及由本局或法律顧問因應案件的實際情況而要求提供的任何其他證據。

*本局保留在不作另行通知的情況下，不時修改本須知內的任何內容（包括但不限於提交侵權投訴時所需的文件）。

若本須知的英文版本與中文版本有任何抵觸之處，則以本須知的英文版本為準。

香港贸易发展局展览会保护知识产权措施-参展商和广告商须知

香港贸易发展局(以下简称为「**本局**」或「**主办机构**」)是专责促进香港对外贸易的法定机构,致力推动原创设计和保护知识产权。

本局订有一套在展览会(「**展览**」或「**本局展览**」)现场内,即场处理任何针对参展商和/或广告商、有关本局展览或与之有关联的侵权投诉的程序,而该等投诉须针对:

- (i) 参展商在展览中发布、展示和/或放置被指称侵犯他人知识产权的产品、物品或物料;或
- (ii) 本局为参展商或广告商,或以他们的名义,发布、展示和/或放置,而被指称侵犯他人知识产权的广告,包括但不限于在(a)在本局的刊物(不论任何媒体、媒介、形式和格式,亦不论在线或线下)(「**刊物**」)的广告、(b)在本局的网站、应用程序、平台和/或社交媒体帐户(包括但不限于 www.hktdc.com,以及本局可能不时营运、管理和使用的任何和所有其他网站、应用程序、平台和/或社交媒体帐户)(「**网站**」)的广告、(c)在本局的展示物(包括但不限于(i)印刷品和/或数码档案、(ii)LED广告,例如但不限于灯箱、电视幕墙、参展商位置系统,以及在升降机内或于扶手电梯上的广告,(iii)横幅和海报,和/或(iv)不论在线或线下、现存或将来、以任何其他方法或方式进行的广告宣传)(「**展示物**」)内的广告、和/或(d)为了于任何上述刊物、网站和/或展示物内(视情况而定),被列为精选推广或宣传的任何产品、服务或物料,或与之有关的广告)(为便于参考,以上类别(a)-(d)所述的每项物品将于本须知中称为「**广告**」)。

此免费的投诉程序并不是投诉人唯一的投诉方法。投诉人亦可以向香港海关和/或香港法院提出投诉。

此投诉程序由本局的驻场法律顾问(「**法律顾问**」)处理,务求帮助确立被投诉人是否须就有关投诉作出答辩,继而决定有关投诉应否被继续跟进,还是被从速解决。

本局订定这套程序的目的是为了协助有关参展商和广告商从速清理毫无根据的投诉,致力保障他们的权利,因为履行尊重他人的知识产权的义务,是参展商和广告商的责任。

兹促请所有参展商必须遵守《贸易发展局展览会参展规则》中的第43条。该条列明参展商于本局展览中的权利与责任;为便于参考,条款内容如下:

「参展商保证展品和产品包装,以及宣传品或摊位的任何展示部分,在任何各方面均没有违反或侵犯任何第三者的权利,包括所有知识产权,其中包括但不限于已注册或未注册的商标、版权、外观设计、名称和专利;并同意悉数赔偿主办机构以及其代理、代表、承包商和雇员因第三者指控参展商和/或主办机构和/或后者的代理、代表、承包商和雇员侵权而招致的费用、开支和索偿。」

所有广告商须注意《香港贸易发展局广告订购合约》内条款和条件中的第2和3条。根据这些条款,广告商所提供的各项保证及承诺包括其保证及承诺任何广告的发布不

会侵犯任何第三方的知识产权，以及它已经取得该广告所需的所有同意和许可。广告商亦承诺和同意保证本局和其合伙人、代理、联属成员、董事、代表、承办商、人员、雇员和用户免受因任何违反或被指称违反广告商所作出的陈述、保证或承诺、任何侵犯或被指称侵犯知识产权（包括但不限于因出版任何广告而引致的专利、注册外观设计、著作权或商标的侵犯）所引致，和/或因广告商出版任何广告（包括但不限于有关其货物和/或服务的广告）所引起、衍生、或直接或间接地导致的第三方申索，或与之有关联的任何指称、申索、损害、罚款、损失、成本、费用（包括法律费用）和不论如何招致的开支所损害，并承诺和同意对上述各方就上述损害作出完全和无条件的弥偿。

每位参展商和/或广告商同意，他们须遵守当时生效的《香港贸易发展局展览会保护知识产权措施：参展商和广告商须知》（「本须知」）（而主办机构可能会不时发出新的须知和更新现行须知），包括但不限于遵守于本须知内列明的任何投诉程序和侵权罚则，不论该参展商或广告商是作为知识产权被侵犯的投诉人，或是作为被投诉人。假如参展商或广告商未能或拒绝遵守本须知内的任何条款和条件，主办机构有唯一和绝对的酌情权：

- (a) 以禁止参展商和其任何代表、母公司、相联公司、联属公司和/或附属公司参加参加本局以后所举办的任何或所有展览，和/或进一步禁止该参展商的任何代表进入参展商当时正在参展的展览会场；和/或
- (b) 以拒绝发布、暂停展示、修改/修订或移除任何广告，和/或禁止有关参展商或广告商于本局展览内或与之有关的任何刊物、网站和/或展示品上，放置、展示或发布广告。

假如投诉人（「投诉人」）按照本须知向主办机构提出投诉，并要求主办机构对参展商或广告商采取行动，投诉人必须同意保证主办机构、其代理、代表、承包商和雇员（包括但不限于他们的法律顾问）免受任何损害，并对上述各方每位因依据或基于投诉人所提出的投诉、或投诉人根据该投诉所作出的任何其他要求、指示或指令而采取行动，进而导致、与之有关联和/或不论如何引起的任何性质的任何和所有责任、损失、费用（包括但不限于法律费用）、开支和损害赔偿。

每位参展商、广告商和投诉人同意，不会向主办机构和其代理、代表、承包商或雇员（包括但不限于他们的法律顾问）采取任何与有关投诉和任何实际或被指称侵犯知识产权的事件相关、或由之引致的法律行动，或提出任何索偿或要求。

处理投诉程序

A. 参展商于本局展览内展示或展览的物品

1. 假如阁下欲提出有关侵犯阁下知识产权的投诉，阁下须向主办机构的展览管理办事处报告，而本局的展览负责人员和所聘请的法律顾问将会处理有关投诉。
2. 假若阁下在摊位内收到投诉，阁下应转介该投诉人到展览管理办事处提出有关投诉。
3. 本须知随附的数据文件和驻场法律顾问皆会指明支持侵权投诉所需的文件种类和其他证据。

4. 假如本局和法律顾问基于投诉人所提供的文件，信纳投诉人的知识产权为有效，而且被参展商在展览内所展示的涉事产品或物料所侵犯，本局展览负责人员会前往涉事摊位视察。
5. 本局和法律顾问亦会浏览本局的网站，检查受争议的产品或任何物品有否于上述网站上展示。如有发现，本局拥有唯一和绝对的酌情权，根据本局之《*网上推广条款和条件*》，在不作另行通知的情况下，停用该网址，或 将受争议的产品或物品从主办机构的网站下架/移除。
6. 作为展览的主办机构，本局有权实时为受争议的产品或任何物品拍摄最少三张照片。
7. 除非有关参展商能向本局和法律顾问提出证据，以显示他/她有权就有关产品或物料进行交易，并使他们信纳，否则该参展商会被要求立即将正在展示中的受争议产品或物品移除，并禁止在余下展期展示有关该产品/物料。参展商亦须立即签字为上述事宜作出承诺。本局会将已签署的承诺书和照片的副本交予有关的投诉人和参展商，并会自行保留一份已签署的承诺书和照片的副本作为记录。
8. 假如本局收到香港海关通知，指香港海关正在调查有关在展览内的参展商的怀疑侵犯著作权和/或商标案件，本局将要求该参展商立即移除正接受调查的产品或物品，并不得在余下展期内展示它们。
9. 假如有关参展商未能按上述第 6、7 和/或 8 条与本局合作，或拒绝与本局合作，本局有权利和权力，按其唯一和绝对的酌情权，禁止该参展商和其任何代表、母公司、相联公司、联属公司和/或附属公司参加本局以后所举办的任何或所有展览。
10. 本局职员会定期前往被投诉（而有关投诉被本局和法律顾问所接纳）的摊位视察，以再次确保有关参展商不再展示或就受争议的产品或物品进行交易。假如参展商被发现违反承诺（即于余下展期内不再展示或处理受争议的产品和物料），本局有权利和权力，按其唯一和绝对的酌情权，实时取消该参展商和其任何代表、母公司、相联公司、联属公司和/或附属公司是次展览的参展权，并毋须退还已收取的参展费，并禁止该参展商和其任何代表、母公司、相联公司、联属公司和/或附属公司参加本局以后所举办的任何或所有展览。

B. 于任何为了本局展览，或与之有关或有关联，而在本局展览、刊物、网站和/或展示品内展示或发布的广告中出现的物品

1. 假如阁下欲提出有关侵犯阁下知识产权的投诉，阁下须向主办机构的展览管理办事处报告，而本局的展览负责人员和所聘请的法律顾问将会处理有关投诉。
2. 假若阁下同时是参展商，并在阁下的摊位内收到投诉，阁下应转介该投诉人到展览管理办事处提出有关投诉。
3. 本须知随附的数据文件和驻场法律顾问皆会指明支持侵权投诉所需的文件种类和其他证据。
4. 假如本局和法律顾问基于投诉人所提供的文件，信纳投诉人的知识产权为有效，而且被受争议的广告所侵犯，广告商会收到通知。
5. 作为展览的主办机构，本局有权实时为受争议的任何物品拍摄最少三张照片。
6. 广告商在收到上述通知起的 24 小时内，享有向本局和法律顾问提出证据的机会，以显示它有权放置、展示或发布被投诉的广告，并使其信纳。假如广告商未能在时限内提出证据，和/或本局和法律顾问并不信纳广告商有权放置、展示或发布该广告，本局拥有唯一和绝对的酌情权去决定合适的行动，包括但不限于实

时移除、下架、暂停展示和/或修改被投诉的广告（例如将该广告内被指称侵权的物品遮盖）。

7. 广告商亦须立即签字为上述事宜作出承诺。本局会将已签署的承诺书和照片的副本交予有关的投诉人和广告商，并会自行保留一份已签署的承诺书和照片的副本作为记录。
8. 假如本局收到香港海关通知，指香港海关正在调查有关在展览内的广告商的怀疑侵犯著作权和/或商标案件，本局将要求该广告商立即移除该广告和任何其他正接受调查的相关物品，并不得在余下展期内展示它们。
9. 假如有关广告商未能按上述第 6 和/或 7 条与本局合作，或拒绝与本局合作，本局有权利和权力，按其唯一和绝对的酌情权，禁止该广告商和其任何代表、母公司、相联公司、联属公司和/或附属公司，于本局网站，以及本局以后所举办的任何或所有展览内展示或发布的任何刊物，放置、展示或发布广告，和/或进一步终止《香港贸易发展局广告订购合约》，并毋须退还已收取的费用。
10. 假如广告商被发现参在余下展商期内违反其承诺（即不再展示、发布和/或以其他方式处理受争议的广告宣传物），本局有权利及和权力，按其唯一及和绝对的酌情权，即实时取消该等参展广告商及其任何代表、母公司、有联系公司、相关公司及、联属公司和/或附属公司是次展览的参展资格广告宣传权，并毋须退还已收取的参展广告费，并禁止其及该广告商和其任何代表、母公司、有联系公司、相关公司及、联属公司和/或附属公司参加在本局以后所举办的任何或所有展览会中进行广告宣传，和/或参加这些展览，和进一步终止《香港贸易发展局广告订购合约》，并毋须退还已收取的费用。

侵权处罚

本局能按照其唯一和绝对酌情权，在下列任何一种情况下，禁止参展商和/或广告商，和/或其任何代表、母公司、相联公司、联属公司和/或附属公司参加本局以后所举办的任何或所有展览（包括但不限于广告宣传的权利）：

- a. 在本局收到和接纳针对参展商或广告商的侵权投诉后，该参展商或广告商未能或拒绝：
 - 立即容许本局职员为受争议的产品、物料或广告拍摄三张照片；或
 - 应本局要求立即签署本局提供的承诺书：
 1. 注明它决定移除或决定继续展示受争议的产品或物料；或
 2. 如果该投诉涉和广告，承认本局移除该受争议广告的权利，或向本局提出证据，以显示它有权放置、展示或发布被投诉的广告，并使本局和法律顾问信纳该些证据；或
- b. 该参展商虽然已应本局要求签署承诺书，以及让本局职员在展览期间为受争议的产品或物品拍照，但它拒绝移除正在展示中的受争议产品或物料，而当该参展商因展示该受争议产品或物料而被控告时，香港法庭裁定申索成功；或
- c. 参展商虽然立即移除正在展示中的受争议产品或物料，并已签署本局提供的承诺书，承诺在余下展期不再展示或处理该物品，和/或广告商已签署承诺书承认

本局移除该受争议广告的权利，但该参展商或广告商其后被发现违反承诺。在此情况下，本局更有权实时终止该参展商和/或广告商在余下展期内参加展览和/或进行广告宣传的权利，并毋须退还已从该参展商和/或广告商收取的参展费和/或广告费；

或

- d. 参展商和/或广告商虽然在展览举行期间与本局合作，包括但不限于移除正在展示中的受争议产品或物料，但该参展商和/或广告商在连续两届展期中，遭香港法庭最少两度裁定侵犯了任何投诉人的知识产权；

或

- e. 同一名参展商在连续两届展览期中，最少四度被超过一名投诉人就不同的知识产权或被同一名投诉人就不同产品或物品投诉，而该些投诉皆为有效和被本局和法律顾问所接纳；

或

- f. 同一名参展商在任何一年内，最少两度被投诉，而该些投诉皆为有效和被本局和法律顾问所接纳；

或

- g. 参展商和/或广告商被控或被判触犯任何有关侵犯知识产权或违反知识产权有关法律或法规的刑事罪行。

有关知识产权的刑事罪行之刑罚

版权条例 (香港法例第 528 章)

任何人制造或处理侵犯著作权之物品，即属犯罪。版权条例已详细列明可构成该等刑事罪行之各类行为。任何干犯有关罪行之人士可就每份侵犯著作权复制品被处罚款港币五万元和监禁四年，或被处罚款港币五十万元和监禁八年，视乎有关侵权行为的性质而定。

商品说明条例 (香港法例第 362 章)

根据商品说明条例，任何人士：

将虚假商品说明应用于任何货品或任何向消费者提供或要约提供的服务；
供应或要约供应已应用虚假商品说明的货品、或向消费者提供或要约提供已应用虚假商品说明的服务；或
管有任何已应用虚假商品说明的货品作售卖或任何商业或制造用途，
即属犯罪。

再者，任何人如伪造任何注册商标或将任何商标，或将任何与某一商标极为相似而相当可能会使人受欺骗的商标，以虚假方式应用于任何货品，亦属犯罪。

另外，任何商户如就任何消费者作出任何不良营商手法 (包括但不限于任何属误导性遗漏的营业行为、具威吓性的营业行为、或构成饵诱式广告宣传、先诱后转销售行为或不当地就产品接受付款的营业行为)，即属犯罪。

任何干犯商品说明条例中有关罪行之人士可被：

一经循公诉程序定罪，可被处罚款港币五十万元和监禁五年；和
一经循简易程序定罪，可被处罚款港币十万元和监禁两年。

证明知识产权的存在和拥有权的所需文件证据

A. 著作权

途径 1： 著作权作品的著作权拥有人在被投诉前的一年内，根据版权条例（香港法例第 528 章）的第 121 条所作出，并证明有关著作权的存在和其拥有权之誓章。誓章的范本可于 http://tpwebapp.hktdc.com/fair/Multi_fairs/pdf/Copyright/2.pdf 下载，以供参考

或

途径 2： 若投诉人拥有并能提交下列第 4-6 项的所有证据正本作举证，以及提交下列所有资料和证据：

1. 著作权作品的首次创作或首次发表的日期和地点；
2. 著作权作品的作者名称；
3. 著作权作品的拥有人名称；
4. 著作权作品的原作正本（例如设计图样、草图等）- **注：**任何副本，包括影印本或计算机副本，均不会被接受；
5. 证明著作权作品之拥有权的证据正本 – 例如若著作权作品的作者是投诉人的雇员，则须提供雇佣合约；或倘若著作权作品的作者并非投诉人或其雇员，则须提供证明作者向投诉人转让著作权的著作权转让书；和
6. (1)可证明首次出售有关著作权作品的产品/物品之日期的证据正本（如发票、货运文件等），或 (2)可证明首次发布有关著作权作品之日期的证据正本，而该证据必须清楚指明该产品/物品。

就途径 2 作出之投诉而言，投诉人亦须在文件证据清单（可于 http://tpwebapp.hktdc.com/fair/Multi_fairs/pdf/Copyright/1.pdf 下载，或于投诉人呈交投诉时，由本局提供）上填写、提供和确认上述所有数据和证据。假如任何所需数据和/或证据有所缺失或不完整、或倘若本局认为任何所提交的资料和/或证据是在任何方面不可信、相互矛盾、虚假或不准确，有关投诉将不被处理或被拒绝。

B. 商标

1. 有效的香港商标注册证书正本或核证副本，包括续期证书或续期证明（**注：**任何非香港的注册均不会被接受）。

2. 香港知识产权署网上检索系统上最新的商标记录打印本，而该打印本须显示该商标的注册详情，和于投诉日前的一（1）星期内打印。

C. 外观设计

1. 有效的香港外观设计注册证书正本或核证副本，包括续期证书或续期证明（注：任何非香港的注册均不会被接受）。
2. 香港知识产权署网上检索系统上最新的外观设计注册记录打印本，而该打印本须显示该外观设计的注册详情，和于投诉日前的一（1）星期内打印。

D. 专利

1. 有效的香港专利证书正本或核证副本，包括续期证书或续期证明（注：任何非香港的注册均不会被接受）；
2. 假如投诉人的投诉所依据的专利是短期专利，下列任何一项有关该专利的证据：
 - a) 于香港进行的实质审查证明书正本或核证副本；
 - b) 向香港专利注册处处长提交、有关对该专利进行实质审查的请求，连同一份书面确认，指该请求尚未被终结、拒绝或终止；或
 - c) 由法院批给的证明书正本或核证副本，核证法院裁断投诉人所依据的专利申索是有效的。
3. 由下列人士所发出的书面意见书，指投诉人于香港的专利为有效，而且因参展商透过展示受争议的产品或物品，而被侵犯；而该意见书清楚和明确地指明被指称侵权的产品或物品之详情：
 - a) 已于香港以外的管辖区核证或注册，并在香港提供专利代理服务的核证或注册专利代理人；和/或
 - b) 于专利方面有经验的香港合资格律师。

以及由本局或法律顾问因应案件的实际情况而要求提供的任何其他证据。

证明广告商放置、展示或发布被投诉的广告的所需文件证据

1. 证明有关知识产权的存在和广告商的拥有权的所需文件证据（见上述 A，B，C，D 部中每类知识产权的要求（如适用））；或
2. 有效合约或许可正本或核证副本，以证明知识产权拥有人已授权，或授予该广告商使用、发布、展示，和/或以其他方式交易或处理在被投诉的广告中展示的相关作品、商标、外观设计，和/或专利的权利。

以及由本局或法律顾问因应案件的实际情况而要求提供的任何其他证据。

*本局保留在不作另行通知的情况下，不时修改本须知内的任何内容（包括但不限于提交侵权投诉时所需的文件）。

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