TOOLKIT 1 – TRADEMARK & DIGITAL BRANDING

PHILIPPINES

PART C: FREQUENTLY ASKED QUESTIONS (FAQs)

SECTION 1: TRADEMARK REGISTRATION / PROTECTION

1. What's the difference between ™ and ®, and when should I use them?

- ™ = *Trademark claim*. You can use ™ anytime you want to indicate that a word/logo is your brand, even before registration.
- ® = *Registered trademark*. You can only use ® after your mark is officially registered with **IPOPHL**.
  ⚠️ Using ® without registration is an offence under Philippines law.

---

2. How do I register my brand name or logo if I sell only online?

Even if you don't have a physical shop, you can file your trademark with **IPOPHL**.

- Use your **online store name** (Shopee, Lazada, TikTok Shop) and **social media handles** as evidence of use.
- Your goods/services should be classified under the right **Nice Classification** (e.g., Class 35 for online retail).

---

3. What's the cost to register a trademark in the Philippines, and how long does it take?

- **Fees**: The official application fee is **per class of goods or services**:
  - **Php 1,200 (small entity) and Php 2,592 (big entity) per class** —
- **Timeframe**: Usually **4 to 6 months** if no objections or oppositions.
  💡 You can file online via https://www.ipophil.gov.ph/etm-file-trademark/ .

---

4. Can I still register a trademark if someone else is already using a similar name online?

It depends. IPOPHL checks for **similarity** including in spelling, sound, and meaning.

- If the other user has no registration and you used the mark first in the Philippines, you might still have a case.
- If they've registered it, you may need to rebrand or challenge their registration.

---

5. Do I need to register my business name and my logo separately?

Yes, if you want **maximum protection**:

- Register the **word mark** (business name) to cover all font styles and designs.
- Register the **logo mark** to protect the visual design.
  💡 Many SMEs file both.

---

6. What happens if I never register my brand? Can I still stop others from copying me?

Yes, under **common law "passing off"**, but:

- You must prove you have goodwill; the other party misrepresented their brand as yours, and you suffered damage.
- This is harder, slower, and more expensive than suing for **trademark infringement**.

---

7. What should I do if someone else grabs my Instagram or Shopee handle before I do?

- For social media: File a **username impersonation complaint** with the platform, showing your brand rights.
- For e-commerce: Use Shopee's or Lazada's IP Protection Portals.
  💡 Always **reserve handles early** on all major platforms, even if you're not active yet.

---

8. If I paid a freelancer or agency to design my logo, do I own the rights to it?

Not automatically. In the Philippines:

- The copyright belongs to the **creator**, unless there's a written agreement transferring ownership to you.
  💡 Always sign an **IP Assignment Agreement** before paying.

---

9. How do I track all the versions of my brand name, logo, and online store names in one place?

Create a **Brand Asset Log**:

- List all brand names, logos, domains, store handles, and social media accounts.
- Record the date you started using each.
  💡 Keep it in a spreadsheet or IP management tool.

---

10. What's the first step if I have no IP team?

- Start with a **brand audit**: Write down everything that identifies your brand (name, logo, domain, slogans).
- Then decide which ones to file first based on **commercial importance**.

---

11. How do I track and audit my IP as a small business?

Use a **central tracker** with:

- IP type (trademark, copyright, domain)
- Registration number & expiry date
- Renewal reminders
  💡 Even a simple Excel or Google Sheet works.

---

12. Do I need to register my trademark again in other countries where I want to sell? What's the cheapest way to do this?

Yes — trademark rights are territorial.

- For ASEAN countries: File in each country or use the **Madrid Protocol** via IPOPHL.
- Cheapest route: Bundle multiple countries in **one Madrid application** (but pick your markets carefully to save cost).

SECTION 2: TRADEMARK ENFORCEMENT

1. **What is trademark infringement?**

Trademark infringement happens when someone uses your brand name, logo, or a similar sign without permission.

- If it's used on similar goods or services, customers may get confused and think it's your brand.
- Example: A shoe brand called "Nikey" with a swoosh logo.

---

2. **Is all trademark infringement the same?**

No.

- Civil liability: You may sue to stop the misuse and claim damages.
- Criminal liability: If it's deliberate and serious.
- Administrative action: In some countries, you can file complaints with IP offices or consumer authorities.

---

3. **What is counterfeiting?**

Counterfeiting is a more serious form of infringement. It means deliberately producing fake goods that are identical to yours and trying to sell them as if they were genuine.

- Example**:** Fake luxury handbags, fake electronics, or fake medicines sold with your exact brand and packaging.

---

4. **Why does the difference matter?**

- Infringement = misuse of your brand (which can be similar, not identical).
- Counterfeiting = deliberate copying (identical fakes).
- Both hurt your business, but counterfeiting is usually a criminal offence and taken more seriously by authorities.

---

5. **What can I do if someone copies my product on an e-commerce platform?**

- Gather **evidence** (screenshots, URLs, seller details).
- File a **takedown complaint** through the platform's IP Protection Portal.
- If that fails, consider sending a **legal letter** or taking legal action through the courts.

---

2. Who do I contact for a takedown?

- **Shopee** → Shopee Intellectual Property Portal (IPP)
- **Lazada** → Lazada Rights Owner Protection (ROP)
- **Facebook/Instagram** → Meta IP Reporting Form
- **TikTok Shop** → TikTok Intellectual Property Policy & Complaint Form

💡 Many platforms have a dedicated **rights owner portal** for faster processing.

---

3. How do I file a takedown on platforms like Lazada, Shopee, or Facebook?

1. Create a **rights owner account** on the platform.
2. Submit your **trademark details** and proof of ownership.
3. Provide **links & screenshots** of the infringing listing.
4. Wait for platform review — most respond in 3–7 working days.

---

4. Do all platforms follow the same takedown process?

Not exactly — each platform has its own system and form for IP complaints.

Here's a quick guide (for details please see Resource Guide/Interactive Tool) :

- **Shopee** → Use the Intellectual Property Portal (IPP) – upload your trademark certificate, seller links, and product screenshots.
- **Lazada** → File through the Rights Owner Portal (ROP) – submit proof of ownership and details of the infringing listings.
- **Facebook / Instagram** → Go to Meta's IP Reporting Form – enter your brand details, attach the registration, and add the links to the fake listings or pages.
- **TikTok Shop** → Use the IP Policy Complaint Form – provide brand registration proof and seller/store URLs.

💡 ***Tip:*** *Keep a folder of your trademark certificates, screenshots, and a short explanation of your brand — you can reuse these for all platforms to save time.*

---

5. What documents do I need to prove that the brand is mine?

- **Trademark registration certificate** (if registered)
- **Proof of use** — invoices, product packaging, website screenshots
- **Business registration** (if no trademark registration yet)
  💡 For unregistered marks, show **evidence of continuous use**.

---

6. What if I haven't registered my trademark — can I still stop someone?

Yes, but it's harder.

- Use **passing off** claims if you can show you used the brand first and built goodwill.
- Many platforms will accept proof of use, even without registration — but decisions are **at the platform's discretion**.

---

7. Do I need a lawyer to report a fake seller, or can I do it myself?

- You can do it yourself on most platforms — they have self-service portals.
- A lawyer or IP consultant can help if you need faster action or **multiple jurisdictions**.

---

8. How can I track if my brand is being misused by others online?

- Do monthly searches for your brand on Google, Shopee, Lazada, TikTok Shop.
- Use **Google Alerts** for keyword monitoring.

- Consider paid tools like **BrandShield** or **Red Points** for automated scans.

---

9. What screenshots or evidence should I collect before filing a complaint?

- **Full page screenshot** showing infringing product, price, and seller name
- **URL link** to the product listing
- **Date & time stamp** of when you captured it
- **Side-by-side comparison** with your real product (if possible)

---

10. What if someone misuses my brand offline (e.g. in a shop or printed materials)?

Offline brand misuse is just as damaging as online infringement. If you find your trademark being copied in physical stores, signage, packaging, or printed ads:

- Gather **evidence**: photos of infringing goods, receipts, shop signage, or advertisements, if possible.
- Consider a **cease-and-desist letter** through your lawyer.
- For serious or repeat cases, consider **civil action** for trademark infringement or passing off. But this is usually quite complex and highly technical, so consult an IP lawyer

Tip: Combining **offline monitoring** (e.g. distributors reporting counterfeits in markets) with online monitoring gives full protection of your brand.

SECTION 3: TRAKDEMARK COMMERCIALIZATION

1. What is a trademark licence, and how is it different from a franchise?

- **Trademark licence** = You give permission for someone to use your brand for certain products/services under agreed terms. You earn royalties, but you don't give them your business system.
- **Franchise** = You grant the right to operate a business using your brand and full business model, including operating systems, training, and ongoing support. In the Philippines, Executive Order No. 169 (Series of 2022) mandates that franchisors register their franchise agreements with the Department of Trade and Industry if they have MSME (Micro, Small, and Medium Enterprise) franchisees.

---

2. Can I let another seller use my brand online? What agreement do I need?

Yes — but always have a **Trademark Licence Agreement**.
It should state:

- **What they can use** (logo, name, product images)
- **Where they can sell** (e.g., Lazada, Shopee)
- **Quality control rules** to protect your brand reputation
- **Royalty or commission terms**

---

3. If an influencer uses my brand in a promotion, should I put that in a contract?

Yes. Use an **Influencer Agreement** to:

- Define the **scope of use** of your brand
- State **how your brand should appear**
- Set **content approval rights** before posting
- Include clauses on **no brand damage or misleading claims**

---

4. How do I know if my brand is strong enough to license or collaborate with others?

Ask yourself:

- Is my brand **registered or at least filed** for trademark protection?
- Is it **recognised and trusted** by customers?
- Is it **distinctive** (not generic or descriptive)?
- Do I have a **clear brand identity** and consistent use across platforms?

---

5. What are some common mistakes SMEs make when licensing their brand?

- Not **registering the trademark** *before* licensing
- No **written agreement** — relying on verbal deals
- Allowing poor-quality products/services under their brand
- Not **monitoring the licensee's usage** *regularly*
- Setting royalty terms that are too low or unclear

---

6. How do I make sure my brand stays protected when someone else uses it?

- Include **quality control clauses** in the licence agreement
- Require **samples or approval** before they release products
- Monitor online listings and marketing materials regularly
- Set the right to **terminate the licence** if they misuse the brand

7. At what stage in their business development should Micro, Small, and Medium Enterprises register a trademark for their brand or logo?

<u>Brand Development Stage (Ideation & Clearance)</u>

- When: Once you've chosen and cleared your name/logo.

<u>Pre-Launch / Pilot Phase</u>

- When: Before public marketing, packaging, or website launch.

<u>Growth & Expansion Points</u>

- When: Before entering new product lines, channels, or export markets.

<u>Prior to Licensing or Franchising</u>

- When: Before granting partners the right to use your brand.

The Best Stage: Pre-Launch / Pilot Phase

- Right after you've chosen and cleared your brand name/logo, but *before* you launch publicly (website, packaging, marketing).
- Why:
    - You lock in legal rights before competitors or squatters see your brand.
    - It avoids costly rebranding after you've already invested in packaging, ads, and promotion.
    - You can use ™ immediately and ® once granted—strengthening trust from day one.
    - Provides a solid legal base as you expand, license, or franchise later.

Other stages (like growth, franchising, or expansion) are still important checkpoints, but the pre-launch stage is the most cost-effective and strategic time to register.

---

7. How can I make money from my brand without selling products myself?

- **Licensing** your brand to manufacturers or online sellers
- **Franchising** your business model
- **Co-branding** with another brand for joint products
- **Digital collaborations** (e.g., branded content, affiliate deals)
- Selling **merchandise** with your brand name/logo

📊 **Comparison Chart – Licensing vs Franchising vs Collaboration**

Feature	Licensing	Franchising	Collaboration / Co-Branding
What you give	Right to use your trademark for certain products/services	Full business model + trademark + operations	Joint use of brands for a project or product
Control	Medium – limited to trademark use rules	High – you control the entire business operation	Low – mainly for branding alignment
Registration Needed	Trademark registration recommended	Executive Order No. 169 (Series of 2022) mandates that franchisors register their franchise agreements with the Department of Trade and Industry if they have MSME (Micro, Small, and Medium Enterprise) franchisees+ trademark registration	Trademark registration recommended
Earning Model	Royalties or flat fees	Franchise fees + royalties	Shared revenue or cost-sharing
Setup Cost (for SME)	Low to moderate	High	Low
Best For	SMEs wanting to monetise their brand without running the business	Businesses ready to replicate their proven model	Short-term campaigns, joint marketing, limited-edition products

Feature	Licensing	Franchising	Collaboration / Co-Branding
Duration	Flexible (1–5 years common)	Usually long-term (5–10 years)	Short-term to medium-term

---

📝 Brand Monetisation Readiness Checklist

Ask yourself:

1. **Legal Protection**
   - ✓ My trademark is registered (or at least filed) in the Philippines.
   - ✓ My logo/word mark is protected in key markets I plan to expand to.
2. **Brand Strength**
   - ✓ Customers recognise and trust my brand.
   - ✓ My brand is distinctive and not generic.
3. **Consistency**
   - ✓ I use my brand consistently across all platforms.
   - ✓ I have a brand asset log with updated versions of my logo, fonts, and colour codes.
4. **Market Demand**
   - ✓ I've had interest from other businesses or influencers to work with my brand.
   - ✓ My brand fits into potential partners' products or services.
5. **Operational Readiness**
   - ✓ I can monitor quality control if someone else uses my brand.
   - ✓ I have (or can draft) a clear licensing or collaboration agreement.

Scoring Guide:

- ✅ 10–12 ticks → Ready for monetisation
- ✅ 7–9 ticks → Strengthen brand consistency & market presence first
- ✅ 0–6 ticks → Focus on brand building & protection before licensing