



**GOVERNMENT OF SAINT LUCIA**

**REGISTRY OF COMPANIES & INTELLECTUAL PROPERTY**

**Attorney General's Chambers**

**Frequently asked questions in relation to Intellectual Property matters**

**What are the types of Intellectual Property?**

- Intellectual Property is a category of property that includes intangible creations of the human intellect.
- It encompasses rights such as: Trademarks, Patents, Industrial design and Copyright .

**What are the importance of Intellectual Property Rights?**

- Provides incentives to the individual for new creation
- Provides due recognition to the creators and inventors
- For economic growth and advancement in technology.

The use of intellectual property should not be overlooked but should extensively be utilized and capitalized.

**What is a Trademark?**

- A Trademark is a legal protection of intellectual Property. A Trademark can be words, symbols, names, designs or any combination of these elements.
- A trademark is a logo or emblem used to identify and distinguish a company or goods from others.
- Trademarks can also be sounds, shapes, fragrances and colour.

### **What are the documents submitted to register a Trademark?**

- Application for Registration of a trademark (Form 1-Scheduled to the Trademark Act). One must properly complete the Trademark application form in duplicate/triplicate.
- Authorisation of Agent (Form 2-Scheduled to the Trademark Act). The required stamps duties must be paid from the Inland Revenue Department.
- Six (6) representation of the Trademarks.

### **What are the benefits of registering a Trademark?**

- The right to infringement lawsuits
- Possibility to collect damages and lost profit for infringement.
- Possibility to recover attorney fees after infringement action.
- The right to use the registered TM symbol which can deter people who want to infringe on you Trademark.
- The right to have customs block goods that infringe upon your Trademark.

### **What is Trademark Infringement?**

- Trademark infringement is improper use of a trademark or a mark that is similar enough to a trademark. The Trademark Act is designed to deter persons from unauthorized use through its enforcement provisions.

### **Can a person register a Trademark on his/her own?**

- A person applying for a registration of a Trademark must do so through an attorney-at-law who is called an "agent" under the Regulations.

### **Can a person register a Trademark in respect to a national symbol?**

- Anyone wishing to register a Trademark with a national symbol must seek permission from the Government of Saint Lucia.

### **How long does statutory protection of a Trademark lasts?**

- A Trademark is protected for 10 years from the date of filing.

### **Can a Trademark be renewed?**

- From as early as 6 months before the expiry of the initial 10 year period of protection, the mark can be renewed on payment of a fee for a further 10 years. In this way, protection of a trade mark is maintained.

### **How much does a Trademark costs?**

- The fees payable on a successful application to register a word mark in relation to one class of goods, in circumstances where there is no opposition, would be \$225.00:

Authorization of Agent - \$5.00 + \$30.00 stamp duty

Application for registration - \$100.00

Each additional class: \$50.00

Publication of mark on acceptance-\$100.00 ·

Certificate of Registration - \$100.00

- The cost of trade mark protection however varies according to: the number of classes of goods or services on which the mark is to be used; · the type of mark - whether a word only, a logo or a word and symbol combined; · Whether there is a need to defend the application in the event of opposition by a third party.
- Fees will also be payable to an Attorney-at-law for professional services.
- Fees can be found at Schedule 5 of the Trademark Act.

### **How do I qualify for protection?**

- **In order to qualify the Trademark must be:**
  - Must not be a mark that is prescribed not to be used as a Trademark.
  - Must not resemble or likely to be taken to be a sign that is prescribed not to be used as a Trademark.
  - Must be represented graphically
  - Must distinguish the applicant's goods and services in respect to which the trademark is sought to be registered from the goods and services of other persons.
  - Must not be a mark consist of a scandalous matter or contrary to law.
  - Mark must not be likely to deceive or cause confusion
  - Must not be identical with or deceptively similar to another mark.

### **What happens when I submit a Trademark application?**

- Each mark is examined to determine whether it conforms to the above mentioned requirements and all other requirements of the Act.
- The Nice and Vienna classifications are used to examine the mark. The Nice classification can be found at (<http://classifications.wipo.int/fulltext/nice>).

- Every effort should be made to ensure the uniqueness of your trade mark as marked similarity to a registered mark will may result in the refusal of registration.
- Where a mark meets the statutory criteria, it will be accepted for registration and its acceptance advertised on payment of a publication fee.
- Other persons will then have a period of 3 months from the date of advertisement to file notice of opposition to the registration of the mark.
- Where there is no opposition or where opposition proceedings are determined in favour of the applicant, a further fee will be payable for the preparation of a Certificate of Registration.

#### **Important to note:**

- Before using a trade mark you should check the Register of Trade Marks to ensure that no one else has registered a mark which is the same or similar to yours for use with the same or similar goods and services. Manual searches of the Trademarks can be done at the Registry of Companies and Intellectual Property at cost \$5.00 for three (3) files and \$1.00 for each additional file.

#### **What is Copyright?**

- Copyright refers to the legal right of the owner intellectual property. To afford better protection for literary, dramatic, musical, artistic and other works and creative products; to make provision as to the rights of performers and others in performances; and to provide for connected matters.

#### **What are related rights?**

- Related rights, also termed neighbouring rights, are rights akin to copyright that are enjoyed by broadcasters, performers and producers of sound recordings.
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#### **What kinds of works benefit from protection?**

- original literary, dramatic, musical or artistic works;
- (b) sound recordings, films, broadcasts or cable programmes;
- (c) typographical arrangements of published editions.

### **How does a work qualify for protection?**

- To qualify for protection, a work must first be original and fixed in some tangible form.

### **The nature of copyright**

The owner of the copyright has exclusive right to authorize or prohibit the following in relation to their work:

- reproduction of the work;
- translation of the work;
- adaptation, arrangement or other transformation of the work;
- the first public distribution of the original and each copy of the work by sale, rental or otherwise;
- rental or public lending of the original or a copy of an audiovisual work, a work embodied in a sound recording, a computer programme, a data base or a musical work in the form of notation, irrespective of the ownership of the original or copy concerned;
- importation of copies of the work, even where the imported copies were made with the authorisation of the owner of copyright;
- public display of the original or a copy of the work;
- public performance of the work;
- broadcasting of the work;
- communication to the public of the work.

### **What is the duration of copyright in respect to literary, dramatic, musical or artistic works?**

- Copyright in any literary, dramatic, musical or artistic work expires at the end of the period of 50 years from the end of the calendar year in which the author dies.

### **What is the duration of copyright in respect to sound recording and films?**

- Copyright in a sound recording or film expires at the end of the period of 50 years from the end of the calendar year in which it was made, or where it is made available to the public before the end of that period, at the end of the period of 50 years from the end of the calendar year in which it is so made available.

### **What is the duration of copyright in broadcasts and cable programmes?**

- Copyright in a broadcast or cable programme expires at the end of the period of 50 years from the end of the calendar year in which the broadcast was made or the programme was included in a cable programme service.

### **What is the duration of copyright in typographical arrangement and editions?**

- Copyright in the typographical arrangement of a published edition expires at the end of the period of 25 years from the end of the calendar year in which the edition was first published.

### **What are the specific rights that come with copyright?**

- The author of a protected work enjoys both commercial rights and moral rights.
- The commercial rights include the exclusive right to authorise or prohibit the reproduction of the work in any form, its public performance, broadcasting or other means of communication to the public, distribution by sale, rental or public lending, translation into other languages and adaptation, arrangement or other transformation. The author is entitled to assign or license these rights if he so desires.
- The moral rights consist of the right to be identified as the author of the work and to oppose any alteration or distortion of the work that could harm the author's reputation. Unlike economic rights, moral rights cannot be sold or transferred

### **Can I assign my ownership in copyright?**

- The author of a protect work is the first owner unless there is an agreement to the contrary.
- Copyright shall be transmissible by assignment, by testamentary disposition or by operation of law, as personal or moveable property.

### **Can my work be protected in Saint Lucia?**

- There is no formal registration of copyright. A voluntarily system operates and persons are asked to mailing the work to yourself. However, under the Copyright Act of Saint Lucia the Registry is responsible for the administration of the Act and to generate a level of enforcement and awareness of treaties and legislation pertaining to copyright.

### **What is a Patent?**

- A patent is a title granted by the State to the creator or owner of an invention, which entitles the inventor to prevent others from manufacturing, using, selling and in some cases, importing the technology without his permission for a specified period of years.

### **What is an invention?**

- An invention is an idea which in practice provides a solution to a specific problem in the field of technology. An invention may be a product or a process.

### **What is the law governing Patent Applications?**

- Patent application is governed by Patent Act No.....
- The Patent Regulations are not yet in force. Therefore, the procedure and operations are not yet implemented. However, post-filing with respect to patents are similar to that of the Trademark.

### **What are the necessary conditions for an invention to be patentable?**

(insert)

### **What cannot be patented?**

(insert)

### **How long does local protection lasts?**

(insert)

### **Has Saint Lucia signed onto any international treaties in relation to patents?**

- Yes. Saint Lucia is a party to the following international treaties relating to patents:
- The Paris Convention for the Protection of Industrial Property (1883), as of 29th August 1995.
- The World Trade Organisation Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPs) 1994, as of 1st January 1995.
- The Patent Cooperation Treaty 1970), as of 6th August 2002.

### **What is the Patent Cooperation Treaty (PCT)?**

The Patent Cooperation Treaty is an agreement for international cooperation in the filing, search and preliminary examination of patents. It is administered by the World Intellectual Property Organisation (WIPO) and so far, 124 countries have agreed to use the system.

### **What is the aim of the PCT?**

The PCT is designed to make the process of seeking patent protection for an invention in several countries simpler and more economical. It has become the preferred means of application for those intending to market their inventions widely.

### **What are some basic facts about the PCT system?**

- The PCT system has two phases: An international phase, which encompasses: ♣ filling of international application ♣ international search ♣ international publication ♣ international preliminary examination and a national phase, which is carried out by each

designated national office. The decision on granting patents belongs solely to the national office in the national phase.

- The International Bureau of WIPO has been appointed as the receiving office for international applications filed by residents and nationals of Saint Lucia. information on the PCT may be obtained on the internet at <http://www.wipo.int/pct/en/>.

### **Can I renew my patent or get another grant for the same invention?**

(insert)

### **Who protects the Patent from being exploited?**

- The owner has the responsibility to protect work from being exploited by others without his permission. Patent rights can be enforced through commencement of proceedings before the High Court.

### **Where is the Registry of Companies and Intellectual Property located?**

- 2nd Floor Hewanorra House, Trou Garnier Financial Centre, Castries, Saint Lucia  
Telephone (758) 468-3230  
Fax (758) 451-7989  
Email: [registrar.rocip@govt.lc](mailto:registrar.rocip@govt.lc)  
Website: <https://attorneygeneralchambers.com/>