



GOVERNMENT OF BERMUDA
Ministry of Economy and Labour

BERMUDA'S UPDATED TRADE MARK FRAMEWORK



Introduction

The Bermuda Government has introduced the Trade Marks Act 2023 to modernize the country's trade mark legislation, replacing the outdated Trade Marks Act 1974. This new framework aims to align Bermuda's trade mark laws with global standards and practices, making the jurisdiction more competitive in the global market.



KEY FEATURES OF THE TRADE MARKS ACT 2023



Modernization and Global Alignment

The new Act updates the definition of "trade mark" to include marks used to distinguish services, not just goods. It also introduces new categories of trade marks, such as Collective Marks and Certification Marks, which were not included in the 1974 Act.

Registration and Renewal

The registration and renewal periods for trade marks have been standardized to 10 years each, aligning with global practices. This change replaces the previous 7 and 14-year periods, resulting in more frequent renewals and increased revenue from renewal fees.

Licensing and Legal Certainty

The Act includes provisions for exclusive licensing rights, allowing trademark owners to convey specified rights to others with more flexibility. It also establishes a single, undivided register for trademarks, replacing the previous two-tier system.

Infringement and Remedies

The new legislation provides detailed actions that constitute infringement of a registered trade mark and outlines the rights and remedies available to trademark owners. It introduces new offences and statutory penalties for infringement and grants additional authority to the Registrar and the Collector of Customs to prevent the importation and sale of counterfeit goods.



Importance of International Compliance

International compliance is crucial for ensuring that Bermuda's trademark framework aligns with global standards and practices. When the relevant IP international treaties are extended to Bermuda, they will not only strengthen the protection of intellectual property rights but also enhance the country's competitiveness in the international market.

One of the key aspects of international compliance is adherence to treaties such as the Paris Convention and the Madrid Protocol. The Paris Convention for the Protection of Industrial Property, established in 1883, provides a framework for the protection of industrial property rights, including trademarks, patents, and industrial designs, across its member countries. This ensures that trade mark owners in Bermuda can benefit from the same protection in other member countries as they do locally, fostering international trade and investment.

The Madrid Protocol, established in 1989, facilitates the registration and protection of trademarks in multiple countries through a single application process. This streamlined system allows trade mark owners to secure protection in multiple jurisdictions efficiently and cost-effectively. By acceding to the Madrid Protocol, Bermuda will enable local businesses to expand their trade mark protection globally, enhancing their competitiveness in the international market.

Compliance with these international treaties not only strengthens Bermuda's trademark framework but also signals the country's commitment to upholding global intellectual property standards. This alignment with international norms encourages foreign investment and promotes the growth of local businesses by providing them with robust protection for their intellectual property rights.



Impact on Local Businesses

The modernization of Bermuda's trade mark framework will have several positive impacts on local businesses:



- **Enhanced Brand Protection:** Local businesses will benefit from stronger trade mark protection, allowing them to safeguard their brands and intellectual property more effectively. This will help in establishing brand recognition and trust among consumers .



- **Increased Competitiveness:** By aligning with global standards, Bermuda's trade mark laws will make local businesses more competitive in the international market. This can help attract foreign investment and partnerships, boosting the local economy.



- **Multi-class Registration:** The introduction of a multi-class registration for trade marks will simplify the registration process for local businesses, making it easier and more efficient to protect their trade marks.



- **Access to International Markets:** Compliance with international treaties such as the Paris Convention and the Madrid Protocol will enable local businesses to register and protect their trade marks in multiple jurisdictions, facilitating expansion into international markets across different classes.



- **Legal Certainty and Clarity:** The new legislation provides greater legal certainty and clarity for trade mark owners, reducing the risk of disputes and enhancing the overall business environment in Bermuda.



Conclusion

The Trade Marks Act 2023 represents a significant step forward in modernizing Bermuda's intellectual property laws. By aligning with global standards and practices, Bermuda aims to enhance its competitiveness and provide robust protection for trade mark owners, both locally and internationally.

Modernization of Bermuda's intellectual property framework aims to make Bermuda more attractive and useful for the protection of intellectual property rights. This modernization initiative will also help Bermuda keep pace with jurisdictional competitors and global market demands, ultimately contributing to the growth and sustainability of the country's modern society.