

Key changes under Jamaica's Trade Marks (Amendment) Rules 2022

Insights - 01/09/2023

Jamaica's Trade Marks (Amendment) Rules 2022 (**rules**) are expected to come into effect on 30 September 2023.

An update to the rules was required from both a procedural and corresponding official fee perspective following the entry into force of the Madrid Protocol in Jamaica on 27 March 2022, making it possible to designate Jamaica as part of an international trade mark application using the Madrid System for the first time. Equally, Jamaican brand owners can use the Madrid System to file international trade mark applications in more than 100 territories. Notably, the Rules have also been updated to increase official trade mark prosecution fees across the board, introduce a process for requesting the expedited examination and processing of applications, and set out formality requirements for non-traditional trade mark applications.

International trade mark applications

The rules outline the procedures to be followed in respect of international trade mark applications designating Jamaica and international applications in respect of which Jamaica is the country of origin. New forms have been provided for use when filing a trade mark application resulting from the transformation of an international registration under section 26L of the Trade Marks Act, as amended (**Trade Marks Act**) and when requesting that the Registrar take note of an international registration in the Register in accordance with section 26O of the Act. The rules also specify certain deadlines in the prosecution process relating to international registrations and outline the process on both the division and merger of international registrations, among others.

Official fee increases

Official trade mark prosecution fees will also be increased across the board for all types of national applications effective 30 September 2023. This is the first time that official fees have

been increased in Jamaica in more than 10 years. The new official fees remain in line with other comparable jurisdictions internationally. Applications for registrations filed prior to 30 September 2023 will be processed in accordance with the current fees regime, even if publication and registration fees do not become payable until after 30 September 2023.

Expedited examination and processing of applications

The rules permit trade mark applicants to request expedited examination for new applications. There is also an option to request that other types of applications or requests be processed on an expedited basis upon the payment of an additional fee. The request for expedited examination made at the time of initial filing will result in an almost doubling of trade mark application costs for a single class application. It is not yet known how quickly expedited applications will be examined, but currently the examination of regular applications is generally taking longer than six months to be completed.

Non-traditional trade marks

Brand owners looking to file applications for non-traditional trade marks (three-dimensional shapes, colour, sound, pattern, touch, taste, smell, hologram and multi-media marks, for example) should take note of the updated formality requirements, which include the acceptance of audio files (to support applications for sound marks), video files (to support applications for hologram marks) and audio-visual files (to support applications for multi-media marks). Applications for smell and taste marks may contain the chemical formulation that creates the scent or taste. Jamaica's Trade Mark Act still calls for the graphical representation of trade marks and this is still also a general requirement. The new rules also require applicants claiming colour as a distinctive feature of a trade mark to specify the colour(s) claimed by reference to an internationally recognised colour identification system (such as the Pantone colour system). It will be interesting to see how many applications are filed for non-traditional marks now that the formality requirements have been more clearly defined.

If you have any questions on the new Rules or require assistance on Intellectual Property matters, feel free to contact Sophie Peat.

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