



Companies and Intellectual
Property Commission

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THE IMPORTANCE OF TRADE MARK PROTECTION

Introduction

Trade marks play a crucial role in the economic landscape, and its significance for businesses operating in and from South Africa cannot be overstated.

A trade mark is a distinctive sign or symbol used in the marketplace to identify and differentiate identical or similar goods or services of one trader from those of another. This article explores the importance of trade marks for businesses operating in and from South Africa, highlights the benefits trade marks provide and the role it plays in fostering economic growth. This article also demonstrates why an intellectual property (IP) strategy - which encompasses trade mark protection - is needed by businesses, in addition to a company registration.

Trade mark protection trends in South Africa

CIPC received 40,936 new trade mark applications in 2021 and 40,271 in 2022, compared to 37,423 in 2020. In 2021 CIPC received 25,155 applications for renewal of registered trade marks, and 30,789 in 2022, compared to 24,926 in 2020.

These figures compared over the 3 years indicates increased entrepreneurial activity in the South African economy as well as sustained confidence in local markets, especially following the global impact of the COVID-19 pandemic during 2020 and 2021.

South African residents lodged 23,541 new trade mark applications in 2022 whereas non-South African residents lodged 16,730 new trade mark applications during the same period. This evidences both an innovative and entrepreneurial appetite within South Africa, as well as a growing interest from international businesses in South African markets.

Brand recognition and differentiation

Trade marks are vital for establishing brand recognition and differentiation in the highly competitive business environment. Establishing a brand identity in the marketplace is not an easy task. A well-executed IP strategy encompassing, to a large extent, trade mark protection, helps to create a unique brand image, making it easier for consumers to identify and remember a particular business. By standing out in the marketplace, businesses can attract and retain customers, ultimately leading to increased sales and growth opportunities.

Building trust and reputation

Trust is a critical factor in the success of any business. Trade marks contribute to building trust and a positive reputation among consumers. When consumers see a familiar trade mark associated with a business, they are more likely to trust its products or services. A strong trade mark serves as a symbol of quality, reliability and consistency, allowing businesses to differentiate and distinguish themselves.

Legal Protection and trade mark rights

Registering a trade mark provides legal protection and exclusive rights to the proprietor, the holder of the trade mark. Businesses investing time, effort and resources into building their brand cannot afford to have it misused or infringed by others. Registering a trade mark in South Africa offers legal recourse in the case of trade mark infringement, allowing businesses to enforce their rights and prevent unauthorised use of their brand. This protection is crucial for safeguarding IP and maintaining a competitive advantage in the marketplace.

Competitive advantage and market expansion

Trade marks give businesses a competitive edge in the marketplace. By establishing a recognisable and reputable brand, businesses can stand out from competitors, even with limited resources. A strong trade mark helps to capture consumer attention, build loyalty and differentiate products or services from similar offerings of other competitors. With a solid brand foundation, businesses can expand their market reach, attract new customers and explore growth opportunities both domestically and internationally.

Business valuation and asset creation

A well-protected trade mark can become a valuable financial asset for a business. As the business grows and gains market recognition, the trade mark's value increases. In some cases, trade marks can be licensed or form part of a franchising strategy generating additional revenue streams for the business. Furthermore, trade marks can be included in the valuation of the company as an asset, potentially attracting investors. By investing in trade marks, businesses can enhance their overall financial standing and potential for long-term success.

CIPC innovations and initiatives

The Trade Marks Division of CIPC is renowned for its innovative initiatives unlocking value for users of CIPC's e-transacting platforms.

E-filing for new trade mark applications was implemented in September 2013. E-filing for trade mark renewals and trade mark restorations was implemented in February 2018 while continuing to allow new applications, renewal and restoration applications to be lodged manually (i.e. by lodging prescribed forms in hard copy). Value-added services were introduced to make available certain system generated documents for download via the CIPC website at no cost (April 2016). Semi-automated services were introduced whereby official documents are issued via automated e-mail and made available for download via the CIPC website at no cost, such as renewal reminders (July 2016), official actions (September 2016) and notices of acceptance (June 2017). Submission of documents for publication in the monthly Patent Journal – has also been fully automated (January 2018).

Recent innovations unlocking value for CIPC clients post-2020 have been welcomed by stakeholders. An e-lodgment platform for the lodging of priority documents under the Paris Convention, with or without a Power of Attorney (March 2021) has been introduced as well as electronic lodgment of General Powers of Attorney (March 2021), requests for extensions of the prosecution term (March 2021) and requests for 1st extensions of time to oppose a trade mark application following advertisement (March 2021). Issuing of electronic notifications upon recordal of amendments both before and after registration (March 2021) and an e-platform for the electronic issuing of 7x different types of trade mark certificates (May 2022) have also been implemented. The most recent addition to the suite of e-services offered by the Trade Marks Division of CIPC is the electronic application for certified extracts (July 2023).

Conclusion

Trade marks are invaluable for businesses in South Africa. Trade marks contribute to brand recognition, differentiation and trust-building while providing legal protection for IP. By investing in a trade mark, businesses can gain a competitive advantage, expand their market reach and create valuable assets. CIPC invites our clients to make full use of its innovative e-services in respect of trade marks. Understanding the importance of trade marks and the benefits offered thereby is essential for businesses aiming to thrive in South Africa's dynamic economic landscape.

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