



TRADE MARK

FUNDAMENTALS

MONEY MATTERS BVI



■ WHAT IS A TRADE MARK?

A Trade Mark is any sign that is capable of:

- (a) being represented graphically, and
- (b) distinguishing the goods or services of one person from those of another person.

Unless specifically excepted, a Trade Mark will also include a certification Trade Mark and collective Trade Mark.

■ WHAT LEGISLATION GOVERNS TRADE MARKS IN THE BVI?

The Trade Marks Act, 2013 (**the Act**) governs Trade Mark registration and protection in the BVI. The Act together with the Trade Marks Rules, 2015 were promulgated into law on 1st September 2015.

The Act also provides the basis for the institution of legal proceedings in relation to Trade Marks, and other matters relevant to intellectual and industrial property.



■ DOES BVI LAW MAKE IT MANDATORY TO REGISTER TRADE MARKS?

No; the Act does not put persons under any legal obligation to register their Trade Mark. It may however be worthwhile to note that where you attach value to your brand which is represented by a Trade Mark, there is wisdom in protecting the goodwill built up by the brand along with your business' reputation from possible infringement.

■ WHAT BENEFITS CAN BE DERIVED FROM REGISTERING A TRADE MARK?



BENEFITS of registering your Trade Mark are:

- 1. Personal Property:** Once registered, you will be entitled to treat the Trade Mark as an item of personal property.
- 2. Exclusive Rights:** As the Trade Mark owner, you will have the right to prevent others from using similar or confusingly identical marks without your permission.
- 3. Support:** The Registrar of Trade Marks, Patents & Copyright (**the Registrar**) will refuse to register any Trade Mark that is identical to one that was previously registered.
- 4. Property Safeguard:** A registered Trade Mark has strong protection against counterfeiting and infringement suits. As the owner of a registered Trade Mark you can sue and collect damages from persons who infringe upon your Trade Mark.
- 5. Added Value:** A registered Trade Mark can add value to your business, since, you can sell it, licence it, franchise it, and even mortgage it.

It is also important to note that Trade Mark protection is territorial by nature; therefore, the registration of your mark in other jurisdictions will not guarantee protection in the BVI.

■ WHAT ASPECTS OF A TRADE MARK CAN BE REGISTERED?



■ HOW DOES ONE GO ABOUT REGISTERING A TRADE MARK IN THE BVI?

The first step toward registration, is filing an application with the Registrar using the TM1 Form. Only Registered Trade Marks Agents can submit the application.

Once the Registrar approves registration of the Trade Mark, the registration will be valid for 10 years. The owner will have the option to renew once the initial registration period expires.

A list of Registered Trade Mark Agents can be found at [here](#).

■ HOW LONG IS THE PROCESS OF GETTING A TRADE MARK REGISTERED?

Provided that no objections are raised during examination and after publication of the proposed Trade Mark in the Virgin Islands Official Gazette, a Trade Mark can generally be registered within five months of the completed application being received by the Registrar.

■ WHAT OTHER SERVICES ARE AVAILABLE THROUGH THE OFFICE OF THE REGISTRAR?

The Registrar can also assist with:

- Trade Mark Searches
- Trade Mark Renewals
- Patent Searches
- EU / UK Patent Re-Registration
- Post Registration Changes (i.e. Change of Agent, Change of Name, Change of Address)
- Trade Mark Mergers
- Assignments of Trade Marks
- Licenses



CONTACT US

REGISTRAR OF TRADE MARKS, PATENTS AND COPYRIGHT

BVI Financial Services Commission

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DISCLAIMER:

The information in this brochure is presented as general information only and as a means of providing a basic understanding of Trade Marks within the BVI context. It is not intended to provide legal or any other professional advice, nor is it a substitute for information contained in the substantive legislation. The brochure must therefore be read in conjunction with the Trade Marks Act, 2013 and Trade Mark Rules, 2015. The Act and Rules are available for download from the Commission's website – www.bvifsc.vg; Residents are urged to read and familiarise themselves accordingly.

Consumers should always consider seeking appropriate legal advice before taking or refraining from taking any action.

MONEY MATTERS BVI is the financial literacy education arm at the BVI Financial Services Commission. It seeks to ensure that consumers (in this case businesses) become more aware of the Trade Mark protections available through financial services legislation.

For more information about the work of **MONEY MATTERS BVI**:



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