



CARIBBEAN TRADEMARK SERVICES

"One Stop Center - 29 Jurisdictions"

George C.J. Moore P.A.

Newsletter – May 2017

ANTIGUA and BARBUDA UPDATE



Aerial view of Antigua

ANTIGUA and BARBUDA – RENEWAL PERIOD

Currently, The Trade Marks Act, 2003 and the Trade Marks Regulations, 2006 are in effect in Antigua and Barbuda as of 1st March 2007. Under this legislation, Antigua and Barbuda established its trade mark laws and repealed and replaced its prior trade mark laws. While the 2003 Act allowed the marks filed under the UK Trade Marks Act and the Local Trade Marks Act to remain valid and in force, the renewal period for some of the marks filed or renewed under those Acts were affected.

The Act states as follows:

- 27(1) *The Registration of the United Kingdom Trade Marks Act and the Trade Marks Act, are repealed.*
- (2) *Notwithstanding the repeal of the Acts referred to in sub-section (1), trademarks registered under those Acts shall remain in force but shall, subject to subsection (3), be deemed to have been granted or registered under this Act.*
- (3) *Trademarks registered under the Acts referred to in subsection (1) shall be due for renewal within the same period as under those Acts or 10 years from the entry into force of this Act, whichever period first expires, and, upon renewal, shall be reclassified in accordance with the International Classification.*

Under Section 27 (2) and (3) of the Trade Marks Act, 2003, the renewal date of certain marks can be affected

and the validity period can be shortened depending on when the mark was filed or last renewed. Therefore, the Certificate of Registration or the Certificate of Renewal may not list the valid renewal date.



Attorney, Keesha Fleming Lake and Paralegal, Elsa Moreland with Ricki Camacho, Registrar at ABIPCO

Our office recently visited the Antigua and Barbuda Intellectual Property and Commerce Office (ABIPCO) to clarify certain practice requirements and to establish a clearer understanding of the marks that would be affected by the March 1st 2017 deadline. According to a statement from the ABIPCO office, ABIPCO required all documents that were filed at its office to be fully compliant with the new Act as of July 17th 2007. Pending renewal applications that were filed prior to July 17th 2007 were granted renewals for 14 years under the prior Trade Marks Act or for 10 years under the current Trade Marks Act 2003. All renewal applications filed after July 17th 2007 would have been filed and granted certificates in accordance with the new Trade Marks Act 2003 valid for 10 years.

The renewal dates associated with trademarks granted under the 2003 Act will not change. However, the registration or renewal dates associated with the trademarks filed or renewed prior to July 17th 2007 may be affected. Pursuant to the section 27 of the Trade Marks Act, 2003, all trademarks filed (or applied for) or last renewed under either the United Kingdom Trade Marks Act or the Local Trade Marks Act, between March

2003 and February 28, 2007 may be due for renewal by March 1st 2017.



Keesha and Elsa with Conliffe Clark, Deputy Registrar of ABIPCO

Affected marks will be due for renewal depending on which date falls earlier between the date on the certificates granted under the old Trade Marks Act and the March 1st 2017 date. If the expiration date on the certificates granted under the old Trade Marks Act falls after March 1st 2017 this renewal date will change. If the expiration date on certificates granted under the old Trade Marks Act falls prior to 1st March 2017 the renewal date granted will not change. All affected Marks that missed the March 1st 2017 date can file for renewal within the 6 month grace period granted under the Act which ends on September 1st 2017. All Marks that were filed under the repealed Acts must also be reclassified upon renewal to adhere to the International Goods and Services, Nice Classification 10th Edition.

Several queries were made to the ABIPCO for clarification of the renewal requirements under the new Trade Marks Act, 2003. As a result, in May 2017, appreciating that this section of the Act was not clear, the ABIPCO issued a policy paper to assist with the interpretation of this section of the Act. This policy grants a three month grace period without penalty for all affected trademarks that have not yet been renewed. This period runs from 5th May 2017 to 5th August 2017. Under this grace period, affected renewals of trademarks that were due to be filed on March 1st 2017 can be filed for renewal within this limited time period without

incurring the late fee. This late fee waiver policy only applies to marks which were due for renewal by March 1st 2017 because of the new deadline imposed by the of the Trade Marks Act, 2003.



Elsa and Keesha with Onixcia Joseph, Application Examiner

There are marks that may not have been renewed with an expiration date prior to March 2003, and therefore, multiple renewals are due. These renewals will be subject to late penalty fees and will be processed under the new Trade Marks Act 2003 and therefore subject to the 10 year validity period from the last renewed date.

The renewal date of a mark is affected depending on whether the renewal certificate which was issued under the Trade Marks Act has a renewal date after March 1st 2017. The Trademarks that would be affected by the March 1st 2017 date would be marks that have an expiration date from 2nd March 2017 to 16th July 2021.

To determine if your trade mark registration is affected by the March 1st 2017 deadline, please contact us for assistance.

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