



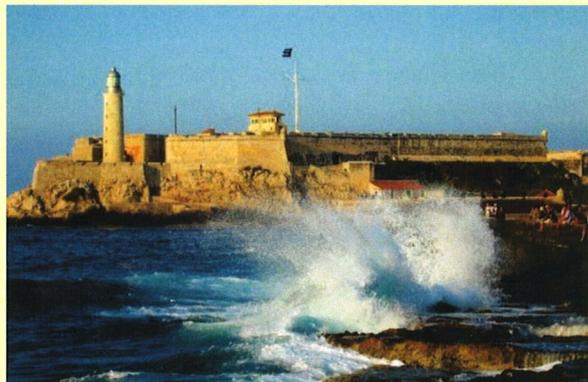
CARIBBEAN TRADEMARK SERVICES

"One Stop Center - 25 Jurisdictions"

George C.J. Moore P.A.

Newsletter – May 2016

CUBA – WIPO-CIPO-USPTO



Castillo de los Tres Reyes Magos del Morro – Havana Cuba

The George Moore P.A. Law Firm offers Patent and Trademark registrations, and related Intellectual Property (IP) services for Cuba. IP protection in Cuba has taken on an urgency as relations between the U.S. and Cuba are on a fast track toward normalization. To keep our clients abreast of the latest developments, members of the George Moore firm frequent Cuba to coordinate the IP registration process. Trademarks are critical for business operations in Cuba which follows a first to file trademark rule. **U.S. companies are allowed to register their trademarks in Cuba.**

In March of 2016 over eight airline carriers submitted applications to the U.S. Department of Transportation outlining what Cuban routes they would like to fly. Flights operating between the two countries today are charters, but a signed agreement allows for up to 110 additional flights per day. American Airlines alone is seeking 10 daily flights from Miami to Havana. On May 4th Carnival Cruise Lines became the first cruise ship to carry passengers from the U.S. to Cuba.

In May of 2016, the Cuban Industrial Property Office (CIPO) in cooperation with the World Intellectual Property Organization (WIPO) held a conference to address Global Challenges of Industrial Property. Paralegal Sidey Salcedo and Patent Attorney Michael Slavin of the George Moore firm attended the conference held in Havana.

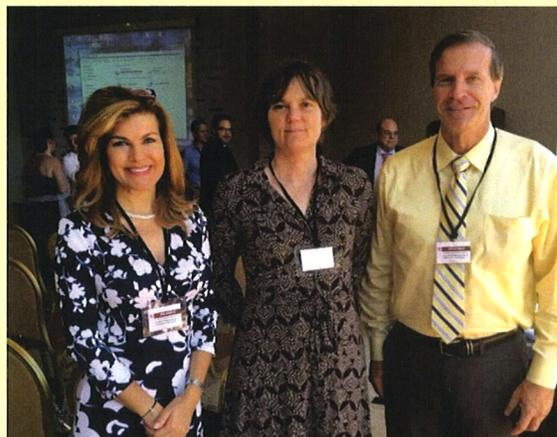
The Conference examined trademarks and other distinctive signs in the global economy, patent information and freedom of action – with links to Cuban policies, technology transfer, trade and environment and Intellectual Property, innovation, health and food safety topics.

Trademark ownership in Cuba allows the owner of the IP certain rights to enforce ownership. The IP owner may seek the termination of infringing acts, compensation for damages, seizure of the proceeds related to the infringement, bans on the import or export of goods, seizure of materials related

to the infringement. The IP owner may also apply for an order to prevent further infringement.

United States Patent Office (USPTO) attorney advisory Karin L. Ferriter, USPTO office of Policy and International Affairs, discussed the Intellectual Property issues between the United States and Cuba. Also discussed was the use of the USPTO search tools, various strategies used to obtain protection at the USPTO, and the flexibilities in the patent system with the U.S. and Cuba being a member of the Patent Cooperation Treaty (PCT).

Patents can be applied for directly in Cuba or by using an International Application (PCT) which can be filed within 30 months from the original filing date. Applications can be presented in the original language and a certified translation filed later. Concession of a Patent grant in Cuba is 20 years for a utility patent and 15 years for a design patent.



Sidey Salcedo, Karin Ferriter and Michael Slavin

Juan Bautista Gonzalez Escalona, president of Corporacion Cuba Ron S.A., spoke about the national pride in manufacturing and significance of trademarks that include a geographic description. Discussion and reference was made to the legal confrontation regarding Havana Club as it applies to the source of origin and protection of geographically based products.



Juan Bautista Gonzalez Escalona, President of Corporacion Cuba Ron S.A.

Trademark descriptiveness practice in Cuba is most unique making it important that the owner understand the Cuban trademark rules, and that the trademark application is properly drafted.

Trademarks can be registered in Cuba with the CIPO. Cuba's legal framework for Trademarks prohibits registration of a sign, mark or trade name that is identical to an earlier trademark registration or pending application for the same goods or services. The registration of a trademark gives its owner the right to exclude others from taking a series of actions that interfere with its exclusive right to use the mark. These protections are meant to protect business interests and the risk of confusion of association in consumers.



Sidey and General Director of CIPO MSc. Maria de Los Angeles Sanchez Dorres

Since Cuba has been detached for decades from the conventional international market and commerce, it is important to understand that the trademark practice in Cuba is different than from what one would expect in the Caribbean or the United States. Obtaining a trademark registration can be more difficult than in other jurisdictions as the Cuban market is not "totally open" as long as the embargo forbids exporting and selling U.S. products in this country. However, there is limited competition when it comes to different brands representing products and services available to the Cuban consumer which makes the Cuban economy a fresh and exciting market as relations normalize.

As the Cuban Trademark Register database grows, and experience from enforcement evolves with the necessity of the growing market, new competitors offering a variety of goods and services available to the consumer will reinforce the forward

thinking of the CIPO regarding the need for strict trademark registration requirements. With the expected growth of the Cuban economy, it is anticipated that for the foreseeable future the CIPO will remain strict in its decisions to avoid granting registration for those marks composed of "weak elements".

The Cuban disclaimer practice is different from most of the jurisdictions wherein obtaining registration for the combination of "non-distinctive", "descriptive" and/or "deceptive" words must be carefully addressed. Figurative elements (devices) are also examined as words and they can be refused depending on the classes that the application is covering. The disclaimer of figurative elements can be also a strategy to avoid provisional refusals. Cuban trademark practice requires proper advice if you wish to succeed obtaining strong and enforceable rights in Cuba. Our firm includes Roberto Albin, a Cuban associate specifically trained in this area of expertise.



Roberto, Sidey and Michael. Havana Cuba

IP is a most important asset of a modern business that seeks to maintain a competitive edge in the Cuban marketplace. If entering Cuba is of interest, trademark registration should be secured before a competitor or squatter absconds with the trademark. The inevitable lifting of the embargo between the U.S. and Cuba is expected to provide an incredible U.S. influx of tourism and business. IP registration records ownership of the company brands and avoids costly legal battles needed to recapture lost rights.

Please contact us or visit us at the Orlando INTA, Booth Number 1401 if you would like to discuss protecting your trademarks in Cuba or elsewhere in the Caribbean.

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