



CARIBBEAN TRADEMARK SERVICES

"One Stop Center - 29 Jurisdictions"

George C.J. Moore P.A.

Newsletter – August 2017

ANGUILLA UPDATE

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Verified by:

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Photo overlooking Sandy Ground, Anguilla

ANGUILLA REGISTRAR TAKES AFFIRMATIVE ACTION AGAINST COUNTERFEIT GOODS.

Counterfeit goods are offered by a party whose sole purpose is to “pass off” the goods as if they were produced by the genuine manufacturer. Typically, the goods are of inferior quality but offered for sale in such a manner that the consumer presumes the goods are genuine. Counterfeit goods can infringe the genuine manufacturer’s trademark, patent and even copyrights. The term “knockoff” is often used interchangeably with counterfeit, although their legal meanings are not identical. A knockoff is a colloquial term which describes goods that imitate the physical appearance of other goods, but which do not copy the trademark. Such goods are considered illegal when they are intended to confuse consumers.

While the obvious problem with counterfeit goods is the loss of sale by the genuine manufacturer, a latent problem occurs due to a possible loss of goodwill caused by the counterfeit product. For instance, a bottle of perfume may look genuine but be filled with a spoiled fluid. The unsuspecting purchaser may believe the goods to be genuine and become so disappointed in the product that they will not purchase the product again, and may recommend that others not purchase the product. Even if the consumer determines the product to be counterfeit,

they may be reluctant to purchase any product from the genuine manufacturer for fear it might be yet another counterfeit. In many instances, the appearance of the counterfeit goods is of such quality that it is difficult to distinguish a counterfeit product over a genuine product without additional help.

We highlight the approach taken in the country of Anguilla by the Commercial Registry and the Anguilla Customs Department. Anguilla is a British overseas territory located in the Caribbean. With no manufacturing being done on the island, all goods used and or consumed on the island are imported from overseas. Anguilla’s location makes it easy for shipping and importation of goods. Anguilla is the most northerly of the Leeward Islands, about 200 miles east of Puerto Rico and about 10 Miles north of Saint Martin / Saint Maarten. This makes for easy access for shipments of cargo to arrive in Anguilla from anywhere in the world via Saint Martin / Saint Maarten, and San Juan, Puerto Rico.

The Commercial Registry in Anguilla, recognizing how the residents rely heavily on imported goods, is taking affirmative action to help stem the tide of counterfeit goods entering Anguilla. Mr. T. Lanston Connor, the Registrar of Commercial Activities for the island of Anguilla, acknowledges that his department works directly with the Anguilla Customs agents in identifying genuine goods. Trademark registration is an important factor in identifying genuine goods, but the Registrar states “we are looking to the manufacturer for additional help in identifying genuine goods over counterfeit goods.” The Registrar is willing to receive, in confidence, any unique method for identifying a genuine product. For instance, a genuine product may include an indiscriminate marking on the corner of product housing. Another example would be a label with unique indicia that is periodically changed, having coding to identify a genuine product. Most any marking or identification can be provided to Registrar Connor who will then work with the Anguilla Customs Department to confirm trademark registration and that the goods are genuine. Counterfeit goods exist in virtually every area, including food,

beverages, clothes, shoes, pharmaceuticals, music, electronics, auto parts, toys, perfume and so forth. Persons wishing to submit information to the Registrar for greater protection of goods at the Anguilla borders should submit the information to Mrs. Judith Webster (Intellectual Property Officer) by email at Judith_w@anguillafsd.com.



Photo of main cargo port in Anguilla

Anguilla was colonized by English settlers from Saint Kitts in 1650. From about 1882 Anguilla, St. Christopher (St. Kitts) and Nevis were combined to establish the British colony of Saint Christopher-Nevis-Anguilla and remained a combined British Colony until the Anguillian natives were unhappy with the arrangement. After several protests and resistance by the natives of the island, Anguilla was separated from the alliance in May 1967 and later placed under direct British rule. In May of 2017 Anguilla celebrated 50 years of separation from St. Kitts and Nevis.

Anguilla's trademark law follows the first-to-file procedure. Trademarks are assigned through the Registrar of Companies, The Commercial Registry the Government of Anguilla. A trademark is valid for 10 years and may be renewed for further periods of 10 years each. In addition to local registration, Applications for a registration can be based on a UK trade mark and can be filed anytime while the UK trademark remains valid and will expire the same time the UK mark expires.

In 2002, Anguilla enacted legislation that updated the trademark law. The updated legislation does the following, among others:

- Allows for Claiming of Priority under the Paris convention;
- Adopted the Nice classification;
- Protects famous marks;
- Offers a more streamlined application process, adopting the procedures and formats of the Trademark Law Treaty; and
- Offers remedies to registrants such as provisions for seizure and confiscation of counterfeit goods and criminal prosecution for infringement of trademarks.

Anguilla's economy depends heavily on luxury tourism and is one of several British colonies that make up the British West Indies (BWI). Anguilla is located about 10 miles from Saint Martin / Saint Maarten, a country divided between the French and the Dutch. The result is Anguilla being frequented by consumers from around the world and the reason it is taking affirmative steps in keeping Anguilla a luxury tourist destination.



Photo of Maunday's Bay, Anguilla

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