



Is modernisation finally on the cards for The Bahamas' intellectual property legislation?

Insights - 18/12/2023

In a [statement to the media on 30 November 2023](#), Attorney-General and Minister of Legal Affairs L. Ryan Pinder, KC announced that the "entire intellectual property framework" of The Bahamas would be reformed, starting with legislative reform.

The Attorney-General acknowledged that major reforms were needed "in an area that has been neglected by The Bahamas for decades" and, in early November, described the current system of protection as "clunky, slow, and inefficient". Proposals for IP reform were first mooted more than 10 years ago so it's great to see them back in motion.

Modernisation would be welcomed by local and international IP owners in The Bahamas, as well as law firms, who find the current system to be insufficient, frustratingly slow-moving, and bureaucratic. For example, in the realm of trademarks – which is the most popular form of registered IP protection sought in The Bahamas to date – there has been a complete standstill in publications since July 2021 (more than two years ago!) There is no clarity as to when the next set of trademarks will be published or how the growing backlog will be dealt with. This leaves brand owners in limbo without transparency on the status of their applications (a manual filing system is currently in place) and whether they will ultimately be registered.

Furthermore, the current trademark classification system only extends to goods (and not services) which must be categorized within the [UK's Pre-1938 Classification as set out in Schedule 2 of the UK's Trade Marks Rules 2000](#). This is the most outdated classification system used in the Caribbean and does not suit the needs of modern businesses locally and internationally. A workaround has been to draft goods descriptions to cover the goods most closely related to the desired services and file the trademark on that basis, but this is far from ideal and does not give the brand owner the level of protection required to fully protect their rights.

In addition to updated trademark legislation, new legislation and regulations will address copyright, protection of new plant varieties, false trade descriptions, geographical indications, integrated circuits, and patents. This will be a huge overhaul and will require a lot of work to

reach successful implementation. Thought will also need to be given to appropriate transitional provisions and time allocated for the joining of the relevant international IP conventions (a phased approach is to be taken starting with trademarks, patents, copyrights, and performers) as well as the training of Registry staff.

However, after the completion of a recently launched comprehensive public consultation process, the Attorney-General proposes to advance the legislation to Parliament by the end of Q1, 2024. This seems like a very quick turnaround. Furthermore, the Attorney-General has promised that "we will not pass bills or amendments and not operationalize them. We will simultaneously put in place the necessary regulations for the suite of legislation to ensure that upon passage in Parliament, we can immediately implement the necessary reforms." If this can be achieved it will be transformational.

The Government of The Bahamas has also launched a [public consultation website](#). Those wanting to follow the progress of the promised legislative changes will be able to view them here, along with a list of all international conventions The Bahamas hopes to join.

As part of the reform process, a new dedicated Intellectual Property Office is also on the horizon (currently the Registry General's office handles IP matters) along with an online intellectual property portal supported by the World Intellectual Property Organization (WIPO). Having a dedicated resource will hopefully see queries addressed with the care and attention they deserve in a timely manner.

I look forward to the modernisation of the existing IP regime in The Bahamas and will continue to follow its progress. It is a step in the right direction that the need for reform, not only for international businesses doing business in The Bahamas but also for the [burgeoning creative industry in The Bahamas](#), has been recognized and that change is on the horizon.

This article originally appeared in [The Trademark Lawyer](#), 14 December 2023.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Key Contacts



[Sophie Peat](#)

Partner

[Cayman Islands](#)

E: sophie.peat@ogier.com

T: [+1 345 815 1744](tel:+13458151744)

Related Services

[Intellectual Property](#)