



Trade marks practice updates in the Bahamas

Insights - 21/01/2025

Now is a good time for brand owners in the Bahamas to review their portfolios and identify and trademarks they may wish to register for services once new legislation comes into effect.

That is according to Ogier Intellectual Property partner Sophie Peat, whose latest update in the International Trademark Association's (INTA) Bulletin focuses on the new Bahamas Trade Marks Act and how it will allow brand owners to protect service classes.

This update first appeared in January 2025 and has been republished with permission from INTA.

Sophie is a member of the INTA and serves on two committees: the Country Guides Committee, for which she has authored guides for the Cayman Islands and British Virgin Islands, and the Trademark Office Practices Committee (Latin America and Caribbean Subcommittee).

| The Bahamas Trade Marks Act

The Parliament of the Bahamas passed the Trade Marks Act, 2024, in July 2024. It will come into force on a date to be published in the Official Gazette. The new legislation has been in the works for more than 10 years and while the timeline to implementation is not yet available, brand owners and practitioners hope the changes will be in place sometime in 2025.

The Act will allow brand owners to file trademarks for services for the first time. Currently, the Bahamas' Intellectual Property Registry classifies trademarks in accordance with the United Kingdom's Pre-1938 Classification of Goods as set out in Schedule 2 of the UK's Trade Marks Rules 2000, which allows for the registration of goods only. The Act allows for classification in all 45 classes of the Nice Classification.

Currently, brand owners who want to try to gain some sort of protection for their "service" marks have had to get creative. Some file for goods that are connected to the services they offer under the trademark in order to secure a level of related protection. For example, those wishing to file for retail services in respect of clothing may file a trademark application covering "clothing".

Others have filed in the local "catch-all" class 50, which covers goods not included in the other available classes. However, wherever the term "services" is mentioned in a specification, a refusal is currently issued.

The implementation of the Act will allow brand owners to protect their valuable service marks for the first time and ensure the highest level of protection.

Other examples of how the Act updates trademarks legislation include the following:

- A wider definition of what may constitute a "sign" protectable as a trademark, including, for example: 3D shapes, holograms, moving images, modes of packaging, sounds, scents, and tastes
- Protection for collective marks as well as certification marks (the current legislation provides protection for the latter only)
- A reduced duration of registration from 14 years to 10 years, with corresponding 10-year renewal periods
- The requirement for a bona fide intent to use the mark on filing or actual use in the Bahamas
- The incorporation of the Paris Convention into law
- The introduction of trademark licensing requirements to replace the outdated "registered user" regime.

How Ogier can help

Ogier's Intellectual Property team acts across the full spectrum of intellectual property rights, including brands and trade marks, copyright, industrial designs and patents, specialising in multi-jurisdictional intellectual property clearance, prosecution, exploitation and enforcement.

If you have any questions on the Bahamas Trade Marks Act, please contact Sophie.

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