



Intellectual Property

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CMC

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Introduction

What is intellectual property?

- These are incorporeal rights obtained by virtue of goodwill as a result of the nexus between a graphic depiction, a norm or phonetic or geographical and a proprietor and its goods in commerce.
- Intellectual property rights are ownership of the reputation that the public attaches to a good, by a slogan or signature of a sort, linking the owner of the right to their good.



Protection

- This therefore means that the goodwill has to be protected from “free-riders” with the intention of taking advantage of the reputation a proprietor has created, intending to pass-off a good as their own.
- To archive this protection of intellectual property rights and to prevent reputational risks, financial risks and more, there have been processes put in place to guide the formulation, usage, maintenance and extinguishing of these rights.



SOURCES OF LAW

- CUSTOM
- LITERARY REVIEW
- LEGISLATION

INTERNATIONAL LAW

- Conventions- Rome Statute, Madrid Protocol
- Copyrights and Neighbouring rights Act

NATIONAL LAW

- Industrial Property Act

AUTHORITIES

- Companies Intellectual Property Authority (CIPA)



- Copyright Society of Botswana (CosBots)
- Botswana Communications Regulatory Authority (BOCRA)



Categories of Intellectual Property

- Trademarks
- Patents
- Copyrights
- Geographical Indicators
- Industrial Designs
- Collect Marks
- Traditional Knowledge and handicrafts

Trademarks

What is a Trademark?

- A trademark is a graphic/phonetic depiction creating a reputation in the public associating both good and proprietor.



Why Register a Trademark?

- In order for one to demonstrate ownership, enjoy protection from risks associated with intellectual property rights ranging from reputational, financial to operational risks a claim of right must be recorded in one registry or inter linked registries to prevent duplicity and ensure uniformity.



How Do You Register a Trademark?

There is a set procedure that guides and ensures uniformity of records at CIPA

1. Application

2. Examination

2.1 Approved

2.2 Rejected

2.3 Disclaimer

2.4 Endorsement

3. Publication

4. Registration



Issuance of a Certificate

BOTSWANA - SOUTHERN AFRICA



REGISTRAR OF TRADEMARK
OFFICE OF THE REGISTRAR OF PATENTS, MARKS AND DESIGNS
INDUSTRIAL PROPERTY ACT 2010
CERTIFICATE OF REGISTRATION OF MARK

In accordance with section 59(1) (b) of the Industrial Property Act CAP 48:05, it is hereby certified that the mark shown below

STANLEY

has been registered under No. **BR/M/2114/0970**

on the 23/08/2010 in class(es) 4

in respect of the following goods and/or services: **PTO**

With the name of: **STANLEY TRADING LLC, A company duly incorporated under the laws of U.A.E.**
Address: **P.O. Box 1216, Dubai, UNITED ARAB EMIRATES**

Dated this 15th day of June, 2017



**Registrar of Marks,
P.O. Box 102,
GABORONE**

Agreement is the responsibility of the applicant and should not be treated as an official statement of the Registrar. This certificate is not for use in legal proceedings or for obtaining registration elsewhere.

Updating The Record

- The right must at all times have an owner capable of easy ascertainment by way of name and location (Address). The registry allows a proprietor to record changes in names and addresses of a mark.
- This ensures that where there is a need to correspond with and or where any action arises the proprietor and intellectual property are capable of being linked.



Transfer of Rights

- Ownership and entitlements in intellectual property may be ceded entirely or partially.



Assignment

- If ceded in their entirety, this would mean they have been transferred and now vest in a new owner by way of a Form 22 application.



Licence Agreement

- A third party may in other instances be permitted use and enjoyment of a right without transfer of ownership in a process referred to as a Recordal of Licence Agreement.



Renewal

- Following registration, a trademark has a lifecycle set at 10 year intervals. At the end of 10 years from the date of registration, a trademark expires and ought to be renewed through a Form 14 process.

Renewal

Termination

- Non use
- Lapse of time
- Expiration



TERMINATED

Resuscitation

- Within two months of the expiration of the 6 months grace period a proprietor is permitted to resuscitate an expired mark, provided that they demonstrate good cause for the delay and show that the delay could not have been avoided.



Challenges

- No remote access to the CIPA database
- Long Queues
- Gaps in the Law
- CIPA can not record phonetics or film
- Lack of Skilled Man Power

