

Frequently Asked Questions

What is a trademark?

A trademark is a distinctive sign capable of distinguishing the goods or services produced or provided by one enterprise from those of another. In general, any distinctive words, letters, numerals, drawings, colours, pictures, labels, or combination of the above used to distinguish between the goods and services of different companies may be considered a trademark.

What is a service mark?

A service mark is very similar in nature to a trademark. Both are distinctive signs; trademarks distinguish the goods of one enterprise from those of others, while service marks distinguish the services of one enterprise from those of others. Services may be of any kind, such as financial, banking, travel, advertising or catering, to name a few.

What is a collective trademark?

A collective mark is generally owned by an association or cooperative whose members may use the collective mark to market their products.

Why register a trademark?

Registration gives you the exclusive right to prevent others from marketing identical or similar products under the same or a confusingly similar mark.

Is registration mandatory?

No, but it is highly advisable.

How long is registration effective?

A registration is valid for 10 years and is renewable every 10 years thereafter upon payment of prescribed fees.

How do I register a trade-mark?

You must file an application on the prescribed forms with the Industrial Property Office, 11th Floor, Sterling House, Lislet Geoffroy Street, Port Louis and pay the required fees.

How would I know which class to file my application in?

In your application for registration of your trade mark, you must include a list of all the goods and services which you want to use the mark for. You must ensure that you classify the goods or services in the correct class or classes they fall in. Classes 1 to 34 are for goods and Classes 35 to 45 are for services. The classes refer to the Nice Classification.

Can I use one application form for all the classes of goods and services?

You may submit one application form covering more than one class of goods and/or services. The application form should state clearly the class numbers and the corresponding goods and/or services applied for.

What are the steps of trade-mark registration?

Trade-mark registration usually involves:

1. a preliminary search (done by you or your representative/agent) of existing trade-marks;
2. an application;
3. an examination of your application by the Industrial Property Office;
4. acceptance and publication of the application in the *Mauritius Government Gazette*.
5. opposition period to the application by other parties (2 months as from date of publication); and
6. issuance of a registration certificate (if there is no opposition after the prescribed 2 months).

Is it advisable to conduct a search of the Office records before filing an application?

Yes. This is to ensure that the mark you intend to use or a similar one is not already registered by another party for identical or similar products/services. You may conduct a search at the Mauritius Industrial Property Office upon payment of the prescribed fee of Rs. 210.

Do you need a trademark agent to file a trademark application?

If you are a national or have an effective business incorporated in Mauritius, you do not require a trademark agent to file an application: you may file the application yourself. Where an applicant's residence or principal place of business is outside Mauritius, he shall be represented by a legal practitioner residing and practicing in Mauritius or an approved agent.

Is trademark registration in Mauritius valid internationally?

The legal rights arising out of a trademark registration are limited to the territory within which it is registered. Hence, registration of a trademark in Mauritius gives you rights only in Mauritius.

What kind of marks may not be registered?

- **Generic terms.** These are the actual names of the products in question. For example, if your company intends to register the trademark **Milk** to sell milk, the mark would be rejected since "*Milk*" is the generic term for the product.
- **Descriptive terms.** These are words that are usually used in trade to describe the product in question. For example the word "**Delicious**" for food products would be considered descriptive.
- **Deceptive trademarks.** These are marks that are likely to deceive or mislead consumers as to the nature, quality or geographical origin of the product. For example, applying for beef products under a mark featuring a **Sheep** would be considered deceptive, and hence, rejected.
- **Marks considered being contrary to public order or morality.** Words and illustrations that are considered to violate commonly accepted norms of morality and religion in Mauritius will not be allowed to secure registration.
- **Flags, armorial bearings, official hallmarks and emblems of states and international organizations.** For example the Mauritian flag may not be registered for marketing sugar or any other product from Mauritius without authorization from the Government.
- **Well-known marks.** These are marks that are well known in Mauritius for identical or similar goods/services.

Can I get my money back if I change my mind or if my application is rejected?

Fees paid to the Office are not usually refunded. Only under very specific circumstances will the Controller consider refunding or remitting fees, either totally or partially.

Who can use the ®?

You may use the ® (Registered symbol) next to your trade mark once your trade mark is registered.