

## The Role of the National Intellectual Property Office and Trade Marks

It is imperative for the Small and Medium Scale Entrepreneurs to understand the importance of “Trade Marks” which comes under intellectual property. Such awareness is essential due to the emergence of various types of new industries arts & crafts. Hence this article proposes to give you an idea of what is meant by Intellectual Property and means of protecting such property.

### Intellectual Property

Any creation by man using his inherent talents comes under intellectual property. It could be a creation, expression of a new idea, song, music, new product, new invention, plan or a trade mark which distinguishes a particular product from another product. Intellectual property is different from various other properties since it is intangible. Intellectual property law is required to safeguard the rights of the creator and to ensure that the society could enjoy its benefits. Accordingly intellectual property law covers books, articles, computer programmes, audio-visual programmes, drama and musical programmes, arts and crafts, innovations, plans, trade marks, service marks etc.

### Intellectual Property Law of Sri Lanka

The English law on intellectual property was enforced in this country when Sri Lanka became a British colony in 1888. Even after Sri Lanka gained its independence in 1948 this law was in force until 1979 with certain amendments. The necessity to introduce a new law was felt after the introduction of the open economy in 1977. Accordingly the new intellectual property law No. 52 of 1979 was introduced. It was in force until 2003 with slight amendments. The present law was introduced on the 12th of November 2003 as the **Intellectual Property Law No. 36 of 2003**. This incorporated the amendments which became necessary due to the emergence of new

**G.R. Ranawaka**  
Assistant Director  
National Intellectual Property Office of  
Sri Lanka

technology. It is important to note that this law is applicable only within the geographical boundaries of Sri Lanka.

Until 1980, the functions under the Intellectual Property Law was handled by the Registrar of Companies. A separate Department, namely the Department of Patents & Trade Marks was established to cover these functions under the Law enforced in 1979. It was headed by the Registrar of Patents and Trade Marks. With the introduction of the amendments in 1997 it was renamed as the National Intellectual Property Office. At present it is headed by the Director General of Intellectual Property. Its functions include the registration of patents, industrial designs, trade marks and service marks and the administration of such registrations.

### Registration of Trade and Service Marks

A trade mark or service mark distinguishes a particular product or service from the other. It assists the consumers to identify a particular item. While trade marks are used on the products service marks are used to identify a particular service. Given below are examples of service/trade marks registered under this department. (following data is given only for information purposes)

#### Trade Marks

Eg.	
Anchor, Laksprey	(Milk Powder)
Lipton, Jones	(Tea)
National, L.G.	(Electrical Appliances)
Damro	(Furniture)

## Service Marks

Eg.

Macdonalds, KFC (Fast Food/Catering Services)  
Ebert Silva (Transport)

Once a trademark is established after its registration, it helps to identify a particular product and to establish its quality as well. It is also directly linked with the good will of the organization that provides the particular goods.

Hence a trade mark is the best means to promote a manufacturer, entrepreneur, service organization or an enterprise from the inception itself. It is therefore important to select a suitable trade mark in the first instance. A trade mark or a service mark could be a word, a logo or a logo with words. In accordance with the Intellectual Property Law a trade mark could be a combination of several words, numbers, a label, a seal, a combination of colours or shapes. Even though a trade mark could be used without registration, it is advantageous to register such trade mark at the National Intellectual Property Office. By way of registration an applicant can obtain a trade mark registration certificate, which confirms the ownership under the law.

## Registration Procedure

Prior to submitting an application for the registration of a trade mark or service mark the applicant may go through the registers maintained in this office to ensure that the intended trade mark/service mark is not already in existence. The trade mark or service mark should specifically distinguish one product from the other product or service. It is prohibited to use trade marks which are already registered or applied for or wellknown or not so wellknown marks used by a third party. Trade or service marks should be designed in such a way not to describe a product or service and should not be detrimental to a particular religion, an ethnic group or moral values.

They should not be similar to wellknown geographical terms (e.g. Ceylon Tea), surnames,

official emblems or flags of a particular nation or state. A trade mark or service mark which do not conform to these requirements will not be registered by this office. In instances of refusal to register a mark the applicant may submit an appeal on valid grounds for reconsideration.

The application for trade or service mark can be made on the basis of the international classification of trade marks. There are 42 classes in the said international classification. Separate applications should be forwarded to cover each category.

## Products

1. Chemicals and abrasives used for industrial and scientific purposes
2. Paints & dyes
3. Bleaching powder, cleansers, soap, powder, tooth paste, cosmetics etc.
4. Industrial oils and grease
5. Pharmaceuticals, sanitary items, plaster, bandages, pesticides, insecticides
6. Metals, alloys, metal pipes, safe and cash boxes, nails, screws and other non precious metal items
7. Machinery & equipment, motors, large agricultural machinery
8. Cutlery
9. Scientific, naval, measuring and electronic machinery & equipment, photographs, cinema equipment, optical equipment and fire extinguishers
10. Artificial body parts, medical equipment including dental and optical equipment
11. Lighting and heating systems, steam generators, cooking appliances, refrigerators, dehydrators etc.
12. Vehicles
13. Guns, explosives, crackers etc.
14. Precious metals, jewellery, gems, timers
15. Musical equipment
16. Papers and paper items, news papers, magazines, articles and office equipment
17. Rubber products and hoses
18. Leather and artificial leather, travelling bags, umbrellas

19. Building materials, cement
20. Furniture, mirrors, plastic items
21. Small domestic appliances & utensils, metal items, porcelain & glass items
22. Rope, nets, tents etc.
23. Thread
24. Bed sheets and curtains
25. Boots, shoes, slippers, wearing apparel and ready made garments
26. Lace, knitted items, buttons
27. Carpets, mats and door mats
28. Sports goods, decorative items
29. Meat, poultry products, processed fruits and vegetables, jelly, jam, milk, milk products, edible oils and pickles
30. Coffee, tea, cocoa, cake, confectioneries vinegar, sauce, spices, rice, flour etc.
31. Agricultural & garden produce, fresh fruits, vegetables, cereals, animal feed
32. Beer, mineral water, non alcoholic beverages and syrup
33. Wine, spirit and alcohol.
34. Raw and processed tobacco, smoking pipes and allied products, match sticks

#### Services

35. Advertising and Business
36. Insurance and finance
37. Building construction and repairs
38. Communication
39. Transportation and storage
40. Treatment of material
41. Education and recreation
42. Miscellaneous (hotel services, computer services and professional services etc.)

#### Preparation of an Application

Applications for registration of trade/service mark may be obtained free of charge from the Trade Marks Branch of this office. Those who live in outstations may request for an application form by post.

Accurately perfected application forms along with six copies of the selected trade mark with a fee of Rs. 460/- should be sent to this office for the registration of trade/service marks. The fee is subjected to change. Once the application is received this office will allocate a particular serial number for the relevant trade/service mark. If the mark is accepted for registration it will be gazetted in the government gazette. If there is no objection raised against the same by a third party only, the certificate of registration would be issued, on payment of the registration fee. This procedure may take a minimum of one year or more. The validity date of a trade/service mark will commence from the date of submission of the application along with the fee. A registered trade mark is valid for a period of 10 years and may be renewed for further periods of 10 years continuously. An entrepreneur who wishes to register its trade name also may register the same, apart from its trade/service mark.

#### Importance of Trade Marks

A third party is not authorized to use a specific trade mark without the permission of its lawful owner. A businessman who sells his business to another party could get a good value for its business inclusive of the goodwill of the trade mark.

Once a mark is registered and when it becomes popular among the consumers it not only identifies the particular goods, it also denotes the standard or the quality of the said goods.

More information can be obtained from this office which is located in the following address.

*National Intellectual Property Office of  
Sri Lanka  
3rd Floor, 400, Samagam Medura,  
D.R. Wijewardena Mawatha  
Colombo 10.  
Telephone: 011-2689368  
E-mail: nipos@sltnet.lk*