

Understanding Intellectual Property

A Practical Guide for Businesses & Entrepreneurs



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Ministry of Foreign Affairs, Regional Integration
and International Trade - International Trade Division

04	Introduction
06	What is IP?
10	Why protect your IP assets?
12	How can you protect your IP assets?
16	Patents
22	Industrial designs
28	Trade marks
32	Copyrights
36	Geographical indications
38	Useful contacts & websites

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The European Union is made up of 27 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.

Understanding Intellectual Property A Practical Guide for Businesses & Entrepreneurs

Ministry of Foreign Affairs
Regional Integration and International Trade

INTERNATIONAL TRADE DIVISION





Foreword

Dr The Hon A. Boolell

Minister of Foreign Affairs, Regional Integration and International Trade

I am happy to be associated with the launching of this brochure which is meant to sensitize SMEs on the benefits of protecting Intellectual Property Rights (IP). One of the important tenants of the Government Programme is to create a nation of innovative and creative entrepreneurs. In this regard, tremendous efforts are being deployed to give a new boost to the emergence of a new generation of small and medium sized entrepreneurs.

Mauritian enterprises have the potential to be at the forefront of product development and secure a growing market share. Continuous human innovation and creativity are crucial to achieve this objective. Unfortunately most of the SMEs are still not aware how to protect what they create, although protection of intellectual property can play a decisive role in supporting the creative and innovative capacities of SMEs. A new set of updated legislation on IP will be

adopted to give the necessary momentum to the reform process and to step up the level of competitiveness in the economy.

The brochure is a practical tool aimed at explaining intellectual property protection and the benefits that it confers. While it is meant for SMEs, it will be equally helpful to students as well as to the public at large.

I want to thank TradeCom for the technical assistance provided to Mauritius in implementing an Intellectual Property Development Plan and to Saana Consulting for this brochure. With the elaboration of the Intellectual Property Development Plan, we want to ensure that IP plays an important role not just in the qualitative development of SMEs but in taking the whole economy on a higher and more sophisticated growth path.

Small and medium sized enterprises (SMEs) in all countries and in all lines of business regularly use and create a great deal of Intellectual Property (IP). For this reason, as an entrepreneur, you should carefully consider the steps required for protecting, managing and enforcing IP, so that you can gain the best possible commercial advantage.

Almost every SME has a trade name, a logo or one or more trademarks and should consider protecting them. In Mauritius a large number of enterprises may have developed creative original designs. Many enterprises will have produced, or assisted in the publication, dissemination or retailing of a copyrighted work. Some may have invented or improved a product or service. Those involved in agriculture may have created new plant varieties.

In all the above cases, the SME should consider how best to use the IP system for its own benefit. Remember that IP may assist in almost every aspect of your business development and competitive strategy: from product design and development to marketing. It is important in raising financial resources for exporting or expanding your business abroad through licensing or franchising.

The main purpose of this brochure is to provide basic information on IP in Mauritius and the opportunities it offers to your SME.

The brochure is intended as a practical tool. It does not aim at explaining every technical element of IP but concentrates on:

- explaining IP in general;
- providing general information on patents, designs, trade marks, copyrights and geographical indications;
- and highlighting how you can benefit from identifying, protecting and exploiting your IP assets.

The brochure uses examples of inventions, marks and designs protected in Mauritius as well as experiences of Mauritian entrepreneurs and researchers to illustrate the potential gains in protecting – and sometimes the drastic ramifications of not protecting – your IP.

What is IP?

IP refers to products of the human mind, such as inventions, designs, literary and artistic works, and the symbols, names, and images used in commerce.

Our daily activities and life involve the use of products of the mind that are protected or may be protected as IP. This could include the following examples:

- daily newspapers that we read;
- the music that we listen to at home, in restaurants, at work or while travelling;
- the ties, shirts and various other fabric designs we wear;
- the food we eat;
- the soft and alcoholic drinks we drink;
- the cell phone and computer that we use;
- the daily programs that are broadcasted on the radio and TV; and
- the parts of vehicles and aeroplanes used as means of transport.

As part of your business activities, you create and use IP assets.

For example, assets that your company may have created include:

- technical manuals and other writings, including letters, generated in the process of operation;
- new solutions developed to improve production capacity and enhance product qualities;
- designs created to add value to your produce; and
- advertisements, brands, symbols or signs used to market your products or company.

However, enterprises may often not recognize the assets that they create and may lose them for failing to protect them.

Please take a moment to think what IP assets your company has or could have and please list them in the boxes on the opposite page.

List your company's IP assets in the boxes below:

1	6
2	7
3	8
4	9
5	10

Are any of these assets protected by law? If not, why?

IP is a valuable asset that should be protected and exploited to improve your enterprise's competitive position and realize profit objectives.

In addition to creating IP assets, SMEs are users and consumers of the IP assets of others. Being aware of and knowing how to use different IP tools will allow you to access and lawfully use IP assets of others, for example, through a licensing arrangement when you buy new software for your computer. We will describe different kinds of IP tools later in the brochure.

IP assets are valuable business assets that should be protected to realize the objectives of SMEs. These include maximizing profit and improving your competitive position.



Your enterprise may generate IP assets. You should always identify the asset and protect it.

Why protect your IP assets?

If you fail to protect your assets, then other people including competitors who have not made any investment and incurred any cost will be in a position to use them freely.

As mentioned before, generating IP assets, such as the development of inventions and the creation of literary and artistic works can be the heart of your business and involve a lot of time, effort and financial investment. If you fail to protect your assets, then other people including competitors who have not made any investment or incurred any cost will be in a position to use them freely. Needless to say, this will result in wastage of effort and loss of investment, which in turn may lead your company to lose market share.

By protecting your IP assets you will have the means and be encouraged to carry out further innovation and creation. By registering the inventions and creations in your company, you can spark the interest of potential business partners and set the basis for healthy financial growth and a reasonable return on investment.

When you register your IP assets, they will be protected by the law, which will

confer exclusive rights to you over the production, sale and marketing of your products and services. This will improve the competitive position of your business in the market and enhance the distinctiveness and appeal of the products and services you provide. Moreover, competitors and other persons will be restricted from using your registered IP assets without your authorization.

Unauthorized use by others such as copying, imitation, manufacturing, exporting and importing your IP asset will constitute infringement of your IP rights. This will result in civil and criminal liabilities and provide the opportunity for you to claim compensation.

As an IP rights holder, you will be able to sell, assign or license your assets. Licensing of IP, for example, will enable your enterprise to collect royalties and exploit its assets in overseas markets and in markets you might not otherwise have entered because of inadequate financial capacity.

When you register your IP assets, they will be protected by the law. This will improve the competitive position of your business in the market.

IP enables enterprises to cross-license technology and creative works or enter into joint venture arrangements with others. Such arrangements facilitate access to IP owned by others, creating potential synergies and helping to maximize benefits of existing assets.

Almost every country in the world has an established IP system, which consists of IP laws and institutions that govern, administer and enforce IP rights. There are sound economic and social reasons behind such measures.

The protection and promotion of IP will enhance technological progress and socio economic development of Mauritius by improving the quality of life and increasing the living standard of the population.

IP protection helps to make accessible the fruits of creativity while facilitating the generation of further assets. IP laws aim at balancing the interest of the inventors and creators on the one hand and the

public interest on the other. The laws confer exclusive rights upon the owner of the IP rights and impose obligations and restrictions to make the IP assets accessible to the public. An illustration of this is the patent law. The law confers a monopoly right over an invention for up to 20 years and in return requires the applicant to make available detailed information of the invention in a clear and sufficient manner. The disclosure requirement is intended to facilitate the use of the invention for research and development by others that may result in new and improved inventions.

Having an effective IP system also helps to promote fair trade and competition in the market, that will help to meet the needs and protect the interests of consumers.

How can you protect your IP assets?

IP is only as much of an asset as you make of it. A business must be aware of what assets it owns and how they should be best protected – and eventually put to use.

SMEs in Mauritius may individually protect their:

- inventions using patents;
- designs using industrial designs;
- signs and symbols using trade marks;
- literary, artistic, musical and scientific works, technical documentation, website designs, computer programs, films and music recordings using copyright; and
- new plant varieties using plant breeders rights or patents.

SMEs may also collectively protect their products using geographical indications.

Each of these tools and the requirements under the relevant laws of Mauritius, as well as the possible routes for protecting the assets outside of Mauritius, are explained in this brochure.

In some cases there are measures to protect your assets for an unlimited period without the need for IP laws. This is the case of trade secrets, which refer

to information that has commercial value to you, that is not generally known and that an outsider cannot figure out. This could include your product formulas, sales methods, customer lists or profiles, business or advertising strategies, plans for technical enhancements to products, etc. A final decision of what information constitutes a trade secret has to be made on a case-by-case basis, depending on the circumstances and type of information. As an SME, you can protect your trade secrets by making sure that only a limited number of people know the secret and that all those who do are well aware that it is confidential information. You can include confidentiality agreements within employees' contracts and sign confidentiality agreements with business partners whenever you have to disclose confidential information.



An infringement of your secret in this case can be made through industrial or commercial espionage, breach of contract or breach of confidence. In view of such risks, you will have to make an assessment to see whether the subject of your trade secret can be protected under a particular IP legislation. You should therefore consider whether it would not be better to have your invention protected for several years under the appropriate legislation, for example, patent and in so doing, disclose the relevant information.

On page 7 we asked you to write down the potential IP assets your company may have. Now please take a moment to think about how you would protect these assets and fill in the answer overleaf in each box for the respective IP asset.

You may sell, license or exploit your IP as you would do with tangible, movable and immovable properties such as vehicles and buildings.

Describe how you would protect your company's IP assets which you listed on page 7:

1	6
2	7
3	8
4	9
5	10



Patents

A patent is a title granted to protect an invention by the IP office for an invention in any field of technology.

The invention may be a process, such as creating a new way to make rum out of sugar, or a product, such as creating a new machine to harvest sugar canes.

An invention can be patented if it fulfils certain conditions, namely if it is new, involves an inventive step and is useful in industry. The invention should not fall under the category of the excluded subject matter.

To receive a patent grant, you must file a grant for a patent with the IP office.

Please note that in Mauritius, the following cannot be patented:

- discoveries, scientific theories and mathematical methods;
- schemes, rules or methods for doing business, performing purely mental acts or playing games;
- methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practised on the human or animal body;

- animals;
- essentially biological processes for the production of plants and animals; and
- copyrightable works, which are left to the Copyright Law.

After examining the application and assuring the invention is in line with the above requirements, the office will issue you with a patent.

REMEMBER... It is very important for you to note that disclosing your inventions, in whatever form, before making applications can destroy the novelty of the invention. You should therefore make sure that your employees keep the invention secret until registration is obtained.

The grant of a patent confers you with an exclusive right. No person can use, make, import, offer for sale, sell and stock the product without your consent.

The patent is valid for a period of 20 years beginning from the date of filing of the patent application. The owner of the patent has a duty to pay an annual fee to maintain the patent. Failure to pay the prescribed fee within the prescribed period of time will be deemed as withdrawal of the patent. It is to be noted that once a patent has expired, the invention described by the patent falls into the public domain: it can be used by anyone without permission from the owner of the expired patent.

REMEMBER... Small and Medium Enterprises should thus note this requirement and keep their patents valid while profitable until the period of expiry.

The grant of a patent confers you with an exclusive right. No person can use, make, import, offer for sale, sell or stock the product for the purpose of offering for sale, selling or use or do any of the acts in respect of a patented process without your consent. Unauthorized exploitation constitutes infringement of a patent right. You may seek civil, administrative and/or criminal remedies provided in the patent law of Mauritius.

If you think that someone has infringed your patent rights, please contact an IP lawyer or the IP office for advice on how to proceed.

Be aware that a patent granted in Mauritius will protect your rights only in Mauritius. If you wish to secure patent protection elsewhere, then you have to apply for patent protection either in foreign patent offices or in a regional patent organization which will provide patent protection in all its member countries.



In Africa, it is possible to file a single application with the African Regional Intellectual Property Organization and with Organisation Africaine de la Propriété Intellectuelle. In Europe, an application may be filed with the European Patent Office.

- African Regional Intellectual Property Organization (ARIPO), Harare, Zimbabwe offers protection in: Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe
- Organisation Africaine de la Propriété Intellectuelle (OAPI), Yaoundé, Cameroon, offers protection in: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Republic of Congo, Cote d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal, Togo
- European Patent Office (EPO), Munich, Germany, offers protection in: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovenia, Slovakia, Spain, Sweden, Switzerland, Turkey and United Kingdom.

Mauritius intends to join the Patent Cooperation Treaty (PCT), which is administered by the World Intellectual Property Organization (WIPO) and has 142 member countries. When the country joins the PCT, a single application designating the countries where you wish to seek protection can be made with the IP office of Mauritius. This will help you save costs and reduce administrative burdens.

Six important issues to note when registering your Patent in Mauritius:

1. Fill in the form available on the website of the IPO at foreign.gov.mu
2. The application should be filled in triplicate and:
 - (a) contain a description of the invention;
 - (b) state the claims;
 - (c) include any drawings relevant for the application;
 - (d) contain an abstract of the invention.
3. In the case of a declaration claiming priority, indicate:
 - (a) date of filing of earlier application;
 - (b) reference number of earlier application;
 - (c) symbol of the International Patent Classification allocated to the earlier application;
 - (d) country in which earlier application was filed;
 - (e) if the earlier application is a regional or an international one, indicate the IP office with which it was filed and submit a certified copy of the earlier application within a period of 3 months of date of application.
4. The prescribed fees when making the application is Rs. 3,000
5. The applicant should be represented by a legal practitioner residing and practicing in Mauritius or an approved agent if the applicant's ordinary residence or principal place of business is outside Mauritius
6. A Power of Attorney appointing an approved agent or legal practitioner should be registered with the Registrar General and filed together with the application or within two months from its filing date

The validity of protection of IP such as patents, industrial designs and trade marks depend on the payment of a renewal fee. Keep records on your IP.

Cost of filing and maintaining application for a patent:

- Application for grant of a patent
Rs. 3,000
- Withdrawal of application
Rs. 0
- Amendment of application
Rs. 0
- Correction of errors
Rs. 0
- Making copies of patent
Rs. 100 per page
- Request for change in patent
Rs. 2,000
- Request for issuance of non-voluntary licence
Rs. 25,000
- Annual maintenance fee:
1st and 2nd anniversary
Rs. 0
- Annual maintenance fee:
3rd to 4th anniversary
Rs. 1,000 per anniversary
- Annual maintenance fee:
5th to 9th anniversary
Rs. 5,000 per anniversary
- Annual maintenance fee:
10th to 14th anniversary
Rs. 15,000 per anniversary
- Annual maintenance fee:
15th to 19th anniversary
Rs. 25,000 per anniversary

IP CASE STUDY

Dr Kishore Ramdoyal
Mauritius Sugar Industry
Research Institute



“ The Mauritius Sugar Industry Research Institute carries out high quality research and development on sugar cane and other crops to meet the agricultural, commercial and societal needs of Mauritius.

The results of our research that can be subject to intellectual property rights are new crop varieties, new processes, new equipment, new techniques and new analytical methods.

Breeding of new sugar cane varieties is important as it aims at increasing productivity through, for example adaptation to the different agro-climatic conditions, increase in sugar content, better ratooning ability, pests and disease resistance, for the benefit of sugar cane planters and the industry at large.

Getting royalties is important in the context of diversifying our sources of financing. Our main source of finance today is a cess on sugar production, but this income may decrease in the near future in the context of the restructuring of the sugar cane industry to maintain competitiveness and sustainability.

Getting royalties from our new varieties is one of the avenues that can help sustain MSIRI's mission to promote, by research and innovation, the technical progress of the sugar cane industry in Mauritius, for the benefit of the Mauritian farming community.

Developments from research that are innovative can also be subjected to patenting or other IPR protection. For example, in the past, the MSIRI had developed a technique for foliar diagnosis of sugar cane, which was not patented, but which is now used worldwide in sugarcane producing countries.”

Note: the Government is currently drafting a bill that will include Plants Breeder's Rights legislation, which will help MSIRI and other researchers to protect their findings and use them for their financial benefit. For more information on the revision of the legislation, please contact the International Trade Division of the Ministry of Foreign Affairs, Regional Integration and International Trade.

Industrial designs

An industrial design is the ornamental or aesthetic aspect of a product of industry or handicraft.

The design may consist of any composition of lines or colours or three-dimensional features such as the shape or surface of a product. An example of industrial design consisting of patterns or colours is a textile product such as a pair of trousers or a t-shirt. An example of a three-dimensional industrial design is the shape of a Coca-Cola bottle. If your company has developed industrial designs, you may apply for protection of these industrial designs at the IP office.

A design may not be registered if it is a functional design, i.e. the design serves solely to obtain a technical result and leaves no freedom as regards arbitrary features of appearance. An example is the design of nuts and bolts. Functional designs, however, can be protected by a patent.

REMEMBER... Protection of industrial designs can only be secured if the design is new. Do not forget to keep your design confidential before filing an application.

Eight things to note when registering a design in Mauritius:

An industrial design that fulfils the requirement of the law will be registered.

Eight points to note when registering your Industrial Design in Mauritius:

1. Fill in the form available on the website of the IPO at foreign.gov.mu
2. Application should be filled in triplicate and signed by the applicant or, in case of a joint application, by all applicants
3. Application should contain 4 copies of drawings, photographs or graphic representations of each of the different sides of the design. Representations, drawings or tracings should not exceed 10 cms by 20 cms and should be affixed on 4 sheets of cardboard of A4 size and be in black ink



4. In the case of a declaration claiming priority, indicate:
 - (a) Date of filing of earlier application
 - (b) Reference number of earlier application
 - (c) Country in which earlier application was filed
 - (d) If the earlier application is a regional or an international one, indicate the office with which it was filed and submit a certified copy of the earlier application within a period of 3 months of date of application
 5. List the type of products for which the registration of the industrial design is being sought as per the Locarno Classification (available on foreign.gov.mu)
 6. The prescribed fees when making the application is Rs. 2,000
 7. The applicant should be represented by a legal practitioner residing and practicing in Mauritius or an approved agent if the applicant's ordinary residence or principal place of business is outside Mauritius
 8. A Power of Attorney appointing an approved agent or legal practitioner should be registered with the Registrar General and filed together with the application or within two months from its filing date
- Cost of application and renewal of industrial designs:
- Application for registration Rs. 2,000
 - Withdrawal of application Rs. 0
 - Registration of industrial designs Rs. 4,000
 - First renewal fee Rs. 4,000
 - Second renewal fee Rs. 5,000
 - Surcharge Rs. 1,500

Industrial designs and inventions should not be disclosed before applying for protection. Keep the assets confidential before making an application.

What rights does design registration offer you? The registration confers an exclusive right to the owner and third parties may not exploit or use the design without the authorization of the owner. The design of works made by employees or persons commissioned by a SME belongs, in principle, to the enterprise.

Unauthorised use or exploitation of registered designs will constitute infringement and result in civil and criminal liability. The protection of designs is valid for a period of five years beginning from the filing date of the application. To keep your registered design in force, you must renew it on the 5th and 10th anniversaries of the registration date, otherwise your design will expire.

If you wish to get protection in other countries, you should use the routes mentioned before regarding patents. The only exception is the European application, which needs to be filed

with the Office for Harmonization in the Internal Market (OHIM), which is located in Alicante, Spain. A registration by OHIM will result in the protection of the industrial design in all EU member states.

The decision to buy a product is made not only on the basis of functionality, utility and purpose but also appearance. Consumers often take the visual appeal of a product into account when making the decision to buy.

If your company operates in the fabric design or handicrafts industries and produces a unique product, you especially should take steps to protect your IP asset. This makes infringing your goods illegal, conferring you the exclusive rights to the goods.

IP CASE STUDY

Mario Guillot

IV PL@Y Clothing Company



I started my clothing company and launched my first collection in 1994.

I registered the “IV PL@Y” logo under the TradeMark legislation in Mauritius. I had not registered my designs (prints, cuts, etc) at first. However, I faced two major infringements of my intellectual property rights.

A French company started copying my designs, using the same branding approach as me for its clothing. I became aware of this infringement just after the sales season, when most of the production had already been sold. We sued the company and the court case is still pending. This action was taken by the French court as my brand name is also registered in France.

The second intellectual property infringement which I had to face concerned the IV PL@Y logo. Although I had registered it in Mauritius as a trademark, there was no automatic protection in other countries. I saw cheap, low quality clothes, designed differently from mine, imported from Thailand, bearing the IV PL@Y logo, being sold in Mauritius.

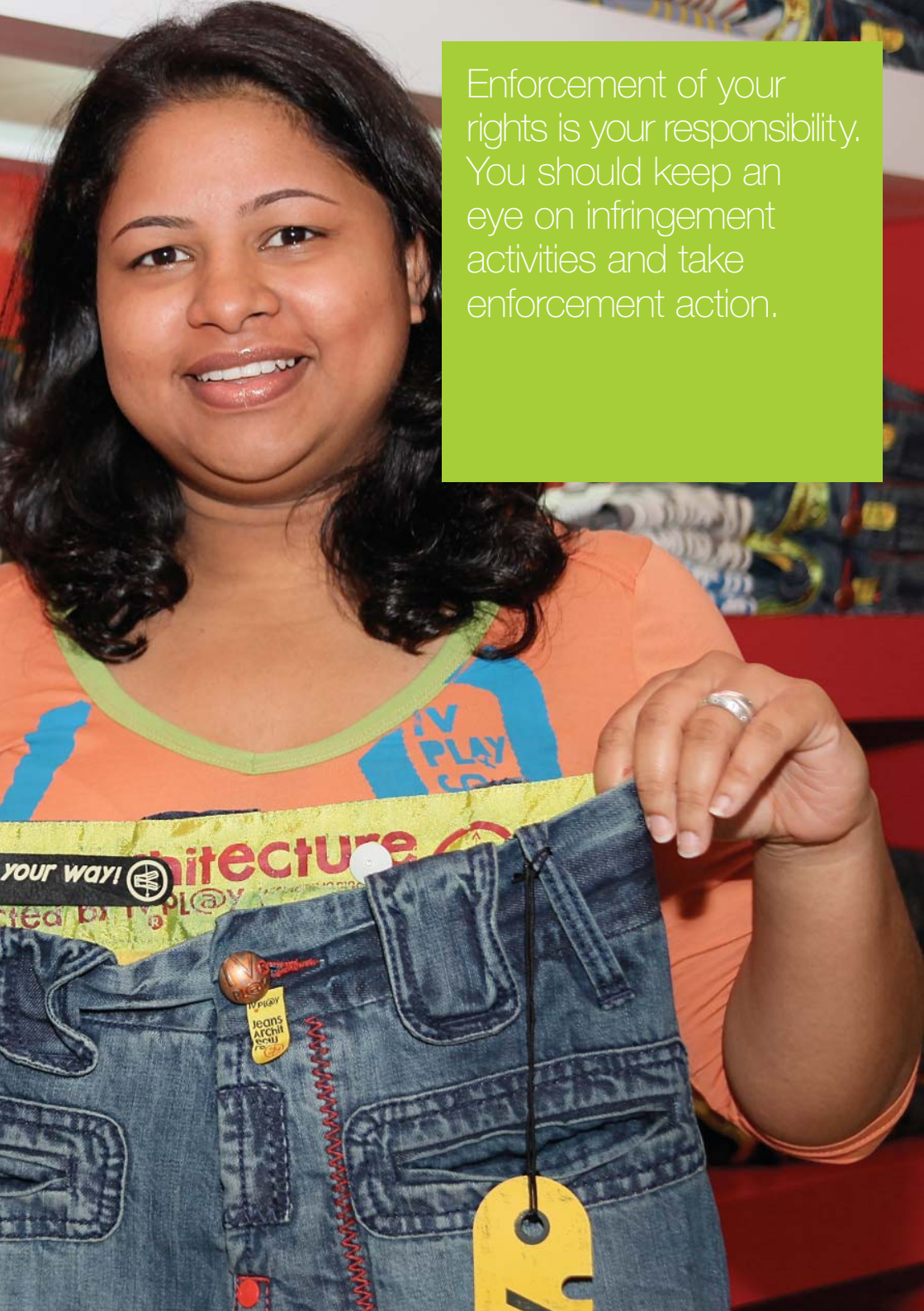


I wish that Mauritian designers would be provided with the right framework, including a traceability system that will allow us to register our designs, with a date of registration, and which will provide us with documentary proofs of our ownership on our designs.”

Note: the new IP legislation will provide the Government with an improved framework, which will enable it to link Mauritius more effectively into the global IP system. This will help entrepreneurs like Mario to register and protect their products more easily and effectively abroad. For the latest updates on the legislative process, please contact the International Trade Division of the Ministry of Foreign Affairs, Regional Integration and International Trade.



Enforcement of your rights is your responsibility. You should keep an eye on infringement activities and take enforcement action.



Trade marks

A trade mark is any sign, which is capable of distinguishing the goods or services of an SME from similar goods or services of other enterprises.

A sign may include letters, numbers, words, logos, symbols or a combination of these.

You can apply for trade mark protection in Mauritius by filing a grant application with the IP Office. A trade mark can be registered and protected when it is distinctive and not misleading about the goods and is not similar to marks which have already been registered.

The Mauritian trade mark law further provides that a mark which contains a representation or resembling the representations of the flag or the arms or Seal of Mauritius, the word Mauritius or Standard or any word or representation likely to lead people to believe that the person claiming to be the proprietor of the mark has or recently had authorisation of the Government shall not be registered unless authorized by the Minister of Foreign Affairs, Regional Integration and International Trade.

A trade mark is a useful business and marketing tool for your company. It will help you establish yourself from your competitors, attract goodwill, a good reputation and build consumer loyalty.

Registering your trade marks will enable you to prevent the registration of confusingly similar marks by others and to fight against counterfeit products. As the rights holder, you can take civil and criminal action against the infringer and seek redress.

You may seek and secure trade mark protection outside of the country. An application for trade mark protection can be made in individual foreign countries, which you consider being a major or potential export destination or where you have competitors who may try to unfairly benefit from your goodwill and reputation.

A trade mark is a useful business and marketing tool for your company. It will help you establish yourself from your competitors, attract goodwill, a good reputation and build consumer loyalty.

It is also possible to file a single application with regional organizations and secure protection in:

- 16 African countries that are party to the Bangui agreement, which is administered by OAPI;
- 8 countries, namely; Zimbabwe, Botswana, Lesotho, Malawi, Namibia, Swaziland, Tanzania and Uganda, which are party to the Banjul Protocol, which is administered by ARIPO; and
- 27 member states of the European union that are party to the laws that establish community trade mark in Europe, which are administered by the OHIM.

Mauritius is not yet a member of the Madrid Agreement and Madrid Protocol concerning international registration of Marks which are administered by WIPO. When the country accedes to these treaties, then you will be in a position to file a single international application and secure trade mark registration that will be

valid in countries that are party to the Madrid system.

Information on the regional and international agreements as well as the implementing organizations is available on-line at the websites of ARIPO, OAPI, OHIM and WIPO. The addresses are provided in the Annex.

Violation of another person's IP will result in civil and criminal liability. Try to obtain authorization to use another person's IP. This could be made, for example, by entering a license agreement or cross licensing your IP.

Ten important points to remember when registering your Trade mark in Mauritius:

1. Prior to making an application, make a search to ensure that the proposed mark does not already exist or is pending application
2. Fill in the form available on the website of the IPO at foreign.gov.mu
3. Include a clear reproduction of the mark in the form and submit the form to IPO in triplicate together with 3 additional reproductions of the mark
4. In the case of a declaration claiming priority, indicate:
 - (a) date and number of earlier application
 - (b) state in which earlier application was filed
 - (c) if the earlier application is a regional or an international one, indicate the office with which it was filed and the State(s) for which it was filed and submit a certified copy of the earlier application within a period of 3 months of date of application
5. List the goods and services for which the registration of the mark is being sought under the applicable class(es), using the NICE Classification for the International Registration of Goods and Services available at foreign.gov.mu and on the WIPO website (www.wipo.int)
6. An application consisting of a foreign word should be accompanied by a transliteration and/or translation of such word, stating the language to which it belongs
7. The prescribed fees when making the application is Rs. 2,000 for any two classes, and Rs. 1,000 for each additional class
8. The applicant should be represented by a legal practitioner residing and practicing in Mauritius or an approved agent if the applicant's ordinary residence or principal place of business is outside Mauritius



9. A Power of Attorney appointing an approved agent or legal practitioner shall be registered with the Registrar General and filed together with the application or within two months from its filing date
10. The signature of the applicant and the date of application should be inserted in the appropriate space in the form

Cost of application and renewal of marks:

- Application for registration
 - any two classes Rs. 2,000
 - each additional class Rs. 1,000
- Withdrawal of application
Rs. 0
- Renewal fee for registration of marks
 - any class Rs. 2,000
 - each additional class Rs. 1,000
- Surcharge for late payment of renewal fee Rs. 700
- Consultation of registers Rs. 200
- Making copies of documents
Rs. 100/page

Copyrights

Copyright is a right over creative works such as literary works, musical works, cinematographic works, computer programs, and artistic works.

Copyright laws make a distinction between ideas and expression of ideas. The right does not extend to the idea but the expression of an idea. As the name indicates, the right is meant to prevent reproduction of a work and not to stop another work from being based on a similar idea. An example is a romantic novel. There are a number of literary, musical and cinematographic works dealing with an idea or theme involving romance. The way the idea is expressed however greatly varies and can be protected. The Copyright Law provides that copyright shall not extend to:

- any idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if it is or they are expressed, described, explained, illustrated or embodied in a work;
- an official text of a legislative, administrative or legal nature or an official translation thereof.

You are not required to apply or register a copyrightable work to secure copyright protection. The right automatically subsists the moment it is fixed, namely written down or recorded in any media.

Copyright consists of a bundle of economic and moral rights. In terms of economic rights, the copyright owner in Mauritius has the exclusive right of:

- reproduction of the work;
- distribution to the public of the original and each copy of the work by sale, rental or otherwise;
- public performance of the work;
- communication of the work to the public;
- broadcasting the work;
- importation of copies of the work, even where the imported copies were made with the authorisation of the author or other owner of the copyright;
- translation of the work; or
- adaptation, arrangement or other transformation of the work.

The author of copyrightable works has moral rights. These rights include the right to claim authorship and object to any distortion, mutilation or other alteration of his work.

The law also recognizes resale right of the author in respect to an original work of fine art. The right holder will be entitled to a share of the resale price of the fine art.

The economic rights of a copyright owner will last for the life of the author and 50 years after his death. This period may be longer when the right is held by joint authors. The 50 years period will run after the death of the last author.


The author of copyrightable works has moral rights. These rights include the right to claim authorship and object to any distortion, mutilation or other alteration of his work.

Although legislation provides that the author of the work shall own the economic and moral rights, there is however an exception to this general rule. When a work is made in the course of the author's employment or where the work is commissioned by another person, the economic right will belong to the employer or the person who

commissioned the work. This can only be changed when the parties agreed that the right will belong to the author.

As an SME, you should recognize that you are the owner of the economic right over the work made by your employee or a person commissioned to do the work in the absence of an agreement stating otherwise.

Broadcasting organizations and performers have rights over their broadcasted work or performance. This right is referred to in some jurisdictions as related or neighbouring rights. The Copyright Act of Mauritius recognizes both rights. The right over a broadcasted work will be protected until the expiry of 20 years from the end of the year in which the broadcast took place. The right of performers will be valid for fifty years beginning from the end of the year in which the first performance took place.



You should keep informed of the changes in the IP laws and follow up new developments that may affect the protection and exploitation of your IP assets.



The copyrightable works of Mauritian SMEs are automatically protected in Mauritius the moment the work is fixed. Such a work is automatically protected in other countries. Mauritius is a member of the Berne Convention for the Protection of Literary and Artistic Works, which has 164 member countries. The convention requires that a work protected in a member country is automatically protected in all member states.

There are cases where there can be contractual arrangements between the employer and the employee, where the employee gets a share of the benefits of the copyrights.

REMEMBER... the following important points about copyright:

- there is no formal requirement for copyright protection
- copyright over works made by employees or persons commissioned by a SME belongs, in principle, to the enterprise, and
- the enterprise's copyright is protected in 164 countries including Mauritius.

You should seek advice and support from relevant professionals and the IP office or MCCI on issues related to your inventions, designs, trade marks or copyrights.

Geographical indications

Geographical Indications refer to goods originating or manufactured in a particular place, where the quality, reputation and other characteristics of the goods is essentially attributable to the place of origin.

These places of origin can be a town, a region or a country. Protectable products include agricultural goods such as fruits, vegetables, meat, poultry and fish, processed foods such as cheese, bakery products, charcuterie, and manufactured or craft products such as textile, carpets. Some well-known examples are Guinean pineapples, Bordeaux wines (France), Habanos tobacco (Cuba), Argan oil (Morocco), Kilim carpets (Turkey), and Thai silk.

The name conveys an assurance of quality and distinctiveness specified by its mode of production or from a nutritional, visual or symbolic point of view.

Unlike other Intellectual Property Rights that we have seen before and that rely on innovations, GIs are based on knowledge, skills and know-how acquired in a particular place. GIs also differ from the other IP in that they do not confer individual rights, but provide collective rights to all producers in the given region who respect a code of practice.

GIs provide a marketing tool that will allow Mauritian producers to market differentiated products with specific characteristics while obtaining protection against usurpation of names. GIs may also have spill-over effects on the economy as they prevent delocalization of production, increase employment, and encourage tourism as they bring value to the place of origin. Thus, GIs can help Mauritian producers obtain a premium price for their products and help increase production while making us proud of our unique products.

Some products that have been identified as being potential GIs in Mauritius include special sugars, salt, tea, rum, anthurium flowers, onions, dholl puris, venison (deer), ship models from Mauritius and red beans, honey, limes, chilli, chilli paste, salted fish and dried octopus from Rodrigues. For further information about GIs, please contact the IP office.



Unlike other Intellectual Property Rights that rely on innovations, GIs are based on knowledge, skills and know-how acquired in a particular place.

Useful contacts

You can find more information from the relevant authorities and institutions listed below

International Trade Division

Ministry of Foreign Affairs,
Regional Integration & International Trade
3rd Floor Fooks House,
Corderie street, Port-Louis
Tel: (230) 208 16 58 / (230) 213 82 38
Fax: (230) 212 63 68
E-mail: motas@intnet.mu

The Industrial Property Office

7th Floor, Moorgate House,
Sir William Newton Street, Port Louis
Tel: (230) 208 57 14
Fax: (230) 210 97 02
E-mail: trademark@intnet.mu

Customs Department

Mauritius Revenue Authority
2nd Floor, IKS Building, Port-Louis
Tel: (230) 206 34 00 / (230) 206 34 01
Fax: (230) 240 10 32
E-mail: customs@mra.mu

The Anti-Piracy Unit, ADSU

Mauritius Police Force
Line Barracks, Port-Louis
Tel: (230) 211 9393
Fax: (230) 211 0728
E-mail: ocapu@mail.gov.mu

Culture Division

The Ministry of Education,
Culture and Human Resources
7th Floor, Renganaden Seeneevassen Building,
Port-Louis
Tel: (230) 212 21 12
Fax: (230) 211 0681
E-mail: moac@mail.gov.mu

Mauritius Society of Authors (MASA)

MASA House, Douglas Sholto Street, Beau Bassin
Tel: (230) 467 22 19 / (230) 454 79 31
Fax: (230) 454 05 78
E-mail: masadirector@intnet.mu
copyrightsoc@intnet.mu

Ministry of Industry, Science and Research

7th Floor, Paille en Queue Court,
Port-Louis
Tel: (230) 210 71 00
Fax: (230) 211 08 55
E-mail: mind@mail.gov.mu

Mauritius Research Council

Level 6 Ebene Heights, 34,
Cybercity, Ebene
Tel: (230) 465 12 35
Fax: (230) 465 12 39
E-mail: mrc@intnet.mu

The Mauritius Chamber of Commerce and Industry

3, Royal Street, Port-Louis
Tel: (230) 208 33 01
Fax: (230) 208 00 76
E-mail: mcci@intnet.mu

**Ministry of Agro Industry,
Food Production and Security**

9th Floor, Renganaden Seeneevassen Building,
Port-Louis

Tel: (230) 212 08 54 / (230) 212 29 40

Fax: (230) 212 44 27

E-mail: moa-headoffice@mail.gov.mu

Mauritius Chamber of Agriculture

Plantation House, Duke of Edinburg Street,
Port-Louis

Tel: (230) 208 08 12

Fax: (230) 208 12 69

E-mail: mca312@intnet.mu

**Association Professionnelle des
Producteurs Exportateurs de Produits**

Horticoles de Maurice (Apexhom)

Mahatma Gandhi Avenue, Moka

Tel: (230) 433 49 06

Fax: (230) 433 48 62

E-mail: apexhom@intnet.mu

**Ministry of Information and
Communication Technology**

9th Floor, Air Mauritius Building, Port-Louis

Tel: (230) 210 02 01 / (230) 210 32 05 / (230) 210 35 54

Fax: (230) 208 14 09 / (230) 212 16 73

E-mail: mict@mail.gov.mu

**Information and Communication
Technologies Authority (ICTA)**

12th Floor, The Celicourt,

6 Sir Celicourt Antelme Street, Port-Louis

Tel: (230) 211 58 83

Fax: (230) 211 94 44

Ministry of Health and Quality of Life

5th Floor, Emmanuel Anquetil Building,
Port-Louis

Tel: (230) 201 21 75

Fax: (230) 208 72 22

E-mail: moh@mail.gov.mu

Useful websites

The following websites will provide you with more in-depth information on how to Intellectual Property can help your business

IP Office, Ministry of Foreign Affairs,
Regional Integration and International Trade
foreign.gov.mu

Mauritius Society of Authors (MASA)
www.masa.mu

Customs Department
mra.gov.mu

World Intellectual Property Organization,
Small and Medium Enterprises Division
www.wipo.int/sme

African Regional Industrial Property Organization
(ARIPO)
www.aripo.org

Organisation Africaine de la Propriété Intellectuelle
(OAPI)
www.oapi.wipo.int

The European Patent Office
www.epo.org

European Union Office for the Harmonization
in the Internal Market (OHIM)
www.oami.europa.eu

UK IP Office
www.ipo.gov.uk

For the list of national IP offices of other countries,
you may access the world IP website
www.wipo.int/news/en/links/ipo_web.htm

World Trade Organization
www.wto.org

IPRsonline portal on Intellectual Property Rights
and Sustainable Development
www.iprsonline.org

International Association for the Protection
of Intellectual Property
www.aippi.org

International Union for the Protection of New
Varieties of Plants (UPOV)
www.upov.int

International Network of Geographical Indications
www.origin-gi.com

Association Littéraire et Artistique Internationale
www.alai.org

The International Anticounterfeiting Coalition
www.iacc.org

International Trademark Association
www.inta.org

Association of European Trade Mark Owners
www.marques.org

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Understanding Intellectual Property

A Practical Guide for Businesses & Entrepreneurs

Small and medium sized enterprises in all countries and in all lines of business regularly use and create a great deal of Intellectual Property.

For this reason, as an entrepreneur, you should carefully consider the steps required for protecting, managing and enforcing Intellectual Property, so that you can gain the best possible commercial advantage.

This brochure concentrates on:

- explaining Intellectual Property in general;
- providing general information on patents, designs, trade marks, copyrights and geographical indications;
- highlighting how you can benefit from identifying, protecting and exploiting your Intellectual Property assets.

Ministry of Foreign Affairs
Regional Integration and International Trade

INTERNATIONAL TRADE DIVISION