

Trademark registration beyond the borders of Sint Maarten

While it is essential to register one's trademark in the country of origin, seeking international trademark protection holds significant importance as well. It is a common perception amongst entrepreneurs and small businesses in Sint Maarten and throughout the region, that their services or goods are limited to their local market. However, with the advancement of technology such as online platforms (e-commerce and others) as well as social media, it's now effortless to cross borders and unintentionally infringe on a brand's identity.

When considering the possibility of protecting a trademark beyond the borders of Sint Maarten, it is essential to have a comprehensive understanding of the various trademark registration systems that are available.

National trademark

Each jurisdiction is entitled to recognize and protect trademark rights according to national (jurisdictional) policy goals. A national trademark registration only provides protection within the jurisdiction in which a trademark is registered. In other words, the national laws apply to the protection of the trademark. Trademark owners should consider registering their mark in any country or jurisdiction where they offer their products or services under that mark. In addition to that, they should seek protection as well in those jurisdictions where they intend to use the mark for those products or services in the future, and/or in which they might have an office or manufacturing facility. Some trademark owners also register their marks in jurisdictions that are known to have problems with intellectual property counterfeiting.

International trademark (Madrid System)

Through an international trademark application, a potential applicant can seek trademark protection in up to 130 countries under the Madrid System. The Madrid System reduces the process of registering a trademark in multiple countries by allowing individuals to submit a single application.

An international trademark filing can be concluded by utilizing one of two methods:

1. An individual may opt to submit individual applications to each respective local Intellectual Property Office (IPO) in order to obtain trademark protection in a desired jurisdiction. By utilizing this method, your trademark can gain increased visibility within the local database.
2. An individual may opt to submit the WIPO MM2 form via their local IPO. This option is preferred if the TM holder wishes to extend their trademark protection to more than one designation at the same time. When the [MM2 form](#) is submitted, WIPO issues an International Registration Number (IRN). The trademark will be visible/searchable in the WIPO Database.



There are several fees associated with filing for an international trademark through WIPO.

1. the [basic fee](#), paid to the local IPO;
2. a complementary fee for each [Contracting Party](#) designated; and
3. a supplementary fee for each class of goods and services in excess of three.

EU trademark

Protection under an EU trademark is limited to the [27 member states](#). To apply for an EU trademark, an individual is required to submit their application online through the [EUIPO](#) website.

The EU offers a four-tier system for trademark registration. The optimal system differs based on the trademark holder demands.

The four-tier system, consist of the following:

1. National level – The registration of a trademark at the national level requires filing an application directly with the relevant intellectual property offices in the European Union (EU).
2. Regional level - At the regional level, the process of registering a trademark pertains solely to the jurisdiction of Belgium, the Netherlands, and/or Luxembourg, and is facilitated through the Benelux Office for Intellectual Property ([BOIP](#)).
3. EU-wide level - The registration of a trademark at the EU level requires submitting a single application to all EU member states.
4. International level - The registration of a trademark on an international level is associated with trademark applications that are submitted through the Madrid System (WIPO) with a specification for one or more of the countries that are members of the Madrid Protocol.

Benelux trademark

Registering a trademark with the Benelux Office for Intellectual Property (BOIP) provides trademark protection for the entire Benelux country at once. This is a joint agreement between Belgium, the Netherlands and Luxembourg in the [Benelux Convention on Intellectual Property \(BCIP\)](#). Although a Benelux trademark provides protection for three countries, it is still referred to as a national trademark.

It is not possible to register a trademark only in the Netherlands or Belgium or Luxembourg. A Benelux trademark registration is useful for entrepreneurs who are largely active in the Benelux countries. An EU trademark can be an attractive option if you are or plan to be active in countries outside the Benelux.

In conclusion, it is of utmost importance to preserve one's intellectual property rights outside of their local market, particularly when engaging in business across different jurisdictions.

About the author:

Amanda Ramirez is responsible for the Bureau's public relations and intellectual property awareness activities, which include social media management and event coordination. She is also the (first) point of contact for inquiries about intellectual property rights.



Sources:

- www.wipo.int
- www.inta.org
- www.euipo.europa.eu
- www.boip.int

Disclaimer

The Bureau is not a regulatory body and therefore does not have any law enforcing authorities. By law, the Bureau can only carry out tasks pertaining to the registrations of trademarks, provide information to the public regarding intellectual property, and thereto related matters. The Bureau's position is neutral. Given the fact that the Bureau must serve all entrepreneurs, it cannot take the side of one party in a conflict, since this would automatically result in no longer being able to serve all. The Bureau cannot act against any infringement of intellectual property rights or the suspicion thereof. Furthermore, the law does not provide for any instruments for the Bureau to conduct any procedures in relation to infringement or dispute settlement. In the event of any (suspected) infringement, a lawsuit should be filed with the civil court by the owner of the intellectual property rights.

| 📅 IP Events Calendar | | 📍 Location | 🌐 Website |
|----------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------------|------------------------------------------------------------------------------------|
| 28/06 01/07 | ECTA: ECTA 41st Annual Conference | Prague, Czech Republic | www.ecta.org |
| 06/07 14/07 | WIPO: Assemblies of the Member States of WIPO Sixty-Fourth Series of Meetings | Geneva, Switzerland | www.wipo.int |
| 12/07 13/07 | The IPR Gorilla: 25th edition conference | Dubai | www.theiprgorilla.com |
| 19/09 20/09 | WIPO trademark North America: Effective, Practical Protection and Enforcement Strategies for Trademark Owners Lifecycle | San Diego | www.trademarksnorthamerica.com |
| 20/09 21/09 | WIPO: Eighth session of the WIPO Conversation on Intellectual Property (IP) and Frontier Technologies | Geneva, Switzerland | www.wipo.int |

* This list is not exhaustive.