

Why to diversify your Caribbean portfolio

While many of the Caribbean islands seem to be low-priority venues for trademark filings, there are some significant reasons why they should not be overlooked

A brand owner's IP development and strategy plan involves registering, monitoring and enforcing its trademarks. This requires cost-benefit analysis, as well as choosing the jurisdictions and target markets in which to register and invest. Smaller jurisdictions are not usually at the top of the list, since the overall view is that they do not offer a large enough area of distribution. However, smaller jurisdictions provide more opportunities for trademark owners than meets the eye. This is especially true in the Caribbean, where population numbers do not always reflect the potential revenue or target markets. After all, most Caribbean jurisdictions receive a large number of tourists on an annual basis, making them an interesting target market.

Although they may not be the most obvious choice, smaller jurisdictions are worth considering when it comes to IP development and strategy planning.

Caribbean tourist markets

For many Caribbean islands, the tourist market is an important source of income. Millions of dollars are spent each year by vacationing tourists from various countries on products that are sold in retail stores, hotels, restaurants and bars, and used at tourist attractions and during tourist activities.

Some Caribbean companies are small, family-owned local businesses. However, there are also a significant number of bigger, international companies on the

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islands, including hotel chains, luxury perfume retailers and airlines. As millions of tourists visit the Caribbean each year, this market is essential for some international brands. Indeed, most of these brands spend a considerable sum of their marketing budget to advertise their products to tourists. This is because products used by consumers while on vacation will often create a positive experience. Therefore, brand owners will often use this emotional branding technique to promote and sell their products.

This also means that areas with tourist markets are interesting from a branding perspective. After all, it is important to enforce well-known brands globally, so registering brands in an area with significant tourist footfall can play a key part in an effective IP development and strategy plan. In addition, enforcement starts with the brand owners. Being actively present (ie, monitoring and enforcing trademarks) helps to create awareness about the importance – as well as the protection – of IP rights in smaller jurisdictions.

Sint Maarten

Take Sint Maarten for example. The island is a small jurisdiction with an interesting and diverse market, located in the Caribbean Sea, among neighbouring islands such as St Barths, Anguilla, Saba, St Eustatius and Saint Kitts and Nevis. Although products and services are mainly sold to US and European tourists, these neighbouring islands offer a smaller yet significant market, given their geographical

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location and (duty-free) shopping facilities. Indeed, many Caribbean islands have similar advantage points.

Sint Maarten is the smallest island in the world to be shared by two nations, as the southern part of the island is Dutch and the northern part is French. This makes Sint Maarten a unique place to visit. Indeed, in 2018 nearly 1.6 million cruise passengers visited the island, according to the Sint Maarten Department of Statistics.

The Dutch area of Sint Maarten is an autonomous partner with the Netherlands and an independent jurisdiction when it comes to IP rights. Protecting intellectual property in this location is the Bureau for Intellectual Property (BIP SXM), the official agency responsible for implementing the National Ordinance on Trademarks. In addition, the BIP SXM provides information to the public about other forms of intellectual property, such as copyright and patents. In close cooperation with the Benelux Office for Intellectual Property, the BIP SXM provides an online registration system, which ensures that the entire process is fast and transparent.

In terms of the climate, 2017 was an extraordinary year with respect to the Atlantic hurricane season. The effects of Hurricanes Irma (6 September 2017) and Maria (19-20 September 2017) have had a profound impact on Sint Maarten and the surrounding islands. Although a lot of rebuilding work has already been done, reconstruction is still ongoing and complete restoration will take some time.

Despite the damage caused by the hurricanes, in 2018 the BIP SXM received a normal level of trademark applications, suggesting that a growing number of companies have reopened their doors or commenced new undertakings. Sint Maarten therefore remains open for business.

Regional collaboration

Caribbean countries generally all face the same social, economic and climate challenges. For this reason, they tend to collaborate on various levels, including with regard to IP rights.

In 2014 the Intellectual Property Caribbean Association (IPCA) was founded to establish a forum for better communication and collaboration among IP practitioners in the jurisdiction. The IPCA aids in the exchange of ideas



Philipsburg is the capital of Dutch Sint Maarten

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and provides networking opportunities for its members, while promoting IP rights in the Caribbean. The IPCA currently has 35 members, including Aruba, Belize, the Cayman Islands, Sint Maarten, the Dominican Republic, Puerto Rico and Panama.

To meet the needs of its members, the IPCA has established committees that engage in topics such as education, enforcement and anti-counterfeiting, and legislation. In this way, members can adopt one another's experiences and search for a joint approach to certain issues. This supports further professionalisation within the different territories' IP offices.

Collaboration on IP rights is not only regional for the Caribbean islands. Historically, a number of smaller Caribbean jurisdictions have been part of a larger territory, and many still have ties to larger (European) countries. This means that their distribution area may be larger than initially perceived, making them an interesting option for doing business.

An opportunity worth pursuing

Caribbean jurisdictions may be small, but they are also extremely professional when it comes to IP matters. They generally have their own IP offices or are related to a larger (European) office for registering national and international trademarks. In addition, there is a significant amount of regional cooperation between organisations such as the IPCA. Smaller offices support further professionalism by learning from one another and working together to combat difficult subjects such as counterfeiting. These approaches support the value of registered brands and increase the use of enforcement, thereby developing the protection of IP rights in the area.

Despite being initially seen as small jurisdictions with few possibilities, Caribbean islands are in fact an interesting choice for diversifying and expanding a brand's global IP reach – especially considering their international ties to larger countries. Besides the locals, regional and international tourists make up a range of target groups, which are large enough to warrant distribution. For these reasons, it is worth considering seeking registered trademark protection in smaller Caribbean jurisdictions. **WTR**

The Intellectual Property Caribbean Association promotes IP rights among its 35 members, which include Aruba, Belize, the Cayman Islands, Sint Maarten, the Dominican Republic, Puerto Rico and Panama



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