

ocraworldwide™
EXCELLENCE IN GLOBAL CORPORATE SERVICES

CYPRUS INTELLECTUAL PROPERTY



Introduction to Cyprus Business Frame	3
Intellectual Property	4
Industrial Property	5
Trademarks	5
Industrial Designs	10
Patents	12
Copyright	17
Who to Contact	22





Introduction to Cyprus Business Frame

Throughout the years, Cyprus has developed as a world renowned International Business Centre. Its political and economical stability, solid legal infra-structure and efficient administration have proved to be fundamental factors in its steady advancement.

Compliance with quality, protection and formality standards relating to different sectors of the economy, as these apply internationally, has always been an objective. Cyprus has drawn up a number of Double Tax Treaties with other countries and ratified various international conventions in several legal areas. Protection as to Intellectual Property could not be an exception.

Cyprus has become a member of the World Intellectual Property Organisation (WIPO) and of numerous related conventions. Its intense commercial activity both on an international and national level imposes the necessity to safeguard the property of business entities and individuals in order to validate commercial activity.

Due to its accession to the European Union as a full member on 1 May 2004, Cyprus further extended its scope of activity and its position is even more attractive. Legislation as to various sub-sectors of intellectual property has been harmonised to meet the demands of the Community and Cyprus has officially become a member to The Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).

Thus a single successful application via a Cyprus Legal Representative for the registration of a Community Trademark or Design means that the same can be protected in all the member states automatically.





Intellectual Property

Rational

It refers to creations of the mind and its protection aims at motivating people to utilise their ability to invent, produce, initiate, innovate and improve.

Intellectual property, just as physical property, should and can indeed be protected.

Protected Categories

It is divided into 2 categories:

- The Industrial Property which includes trademarks, industrial designs, patents and
- Copyright which includes literary and artistic works





Industrial Property

Trademarks

Nature The unique and distinct character of goods or services is identified. It is used to distinguish one trader's goods or services from those of another.

Cyprus Memberships

- Paris Convention for the Protection of Industrial Property
- Trademark Law Treaty, The WIPO Convention
- Madrid Agreement Concerning the International Registration of Marks
- The Madrid Protocol
- The Geneva Trade Marks Law Treaty 1994
- World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

National Law And Guidelines

- The Trade Mark Law CAP 268 which governs trademarks and their registration in Cyprus
- The Amending Laws 63/1962, 69/1971, 206/1990 and 176/2000.
- Law 176/2000 has brought Cypriot trademark legislation in line with European trademark legislation.

Why Protect Trademarks

- It ensures the exclusive right to its owner to use it.
- Offers legal protection. The owners need only to show its unauthorised use, without having to prove actual damage to their business.
- Blocking of third parties from registering a trade mark for identical or similar goods and services.
- Right of the owners to seize and remove infringing goods from the market.
- Ability to authorise the use to third parties in return of financial profit.
- It is an asset with valuable goodwill attached to it. Trademarks may be valued and included in the balance sheets of the business.





- Avoidance of confusion in the market as to who devises and or promotes a particular product or service.

What may be registered as a trademark in cyprus

Any sign capable of graphical representation especially

- comprising words including names of people
- designs
- letters
- numbers
- the shape of the product or its packaging
- any combination thereof

that by its nature is capable of distinguishing the products or the services of one undertaking from those of another as long as the said trade mark is used or is intended to be used for the purposes of such distinction.'

Any Certification mark which is certified as to quality, country of origin, method of manufacture and ingredients. Certification marks are normally attached to famous national products.

Any Collective mark which distinguishes the products or services of members of one group of undertakings from those of another. Examples of such groups of undertakings would be associations representing accountants, engineers or architects.

Application of Registration

An Application is submitted

- By any natural person or a corporation.
- Only via a lawyer member of the Cyprus Bar Association, practising law in Cyprus.

together with





- An Authorisation of Agent form signed by the client authorising the lawyer to act on his behalf. Where the applicant is a legal entity the Authorisation of Agent must also be sealed with the Company's seal.
- Forms ES1, ES 2, ES3.
- Full details of the applicant's name, address, nationality (and nature of business in case the applicant is a corporation)
- A clear reproduction and or description of the goods (or services) to be covered by the application including colours, forms and bi- or tri- dimensional figures and the required class to be registered
- Certified document by the relevant authority to confirm priority right if available, under the Paris Convention with certified translation in Greek

The Lawyer may carry out a preliminary search to identify clear grounds for a successful application.

The international classification system is followed subdividing goods and services into classes 1-34 and 35-45 respectively.

Applications concerning different classes are submitted individually

The Registrar In Practise

Appoints a filing date

- Issues a registration number to the mark.
- Conducts a search in order to establish its registrability

The Registrar may then either,

Accept the proposed Trade mark

- with conditions by imposing modifications or
- without conditions





If proposed to be accepted with conditions by imposing modifications then the applicant may request in writing the reasoning behind the Registrar's intention to impose conditions and have a right to be heard before the Registrar via his Lawyer against such imposition by setting out the respective reasons.

If the Registrar accepts the trademark without conditions and or the applicant accepts the trademark with conditions

then

The trademark is published to the Official Gazette of the Cyprus Republic further to the payment of the relevant publication fee.

If there is an objection by third parties within the prescribed time frame to the trademark then the applicant has the right to reply to such third party objections. Else, if there is no such objection the trademark is registered and the Certificate of Registration is due for issuance.

Reject it due to

Absolute grounds as provided by the Law such as lack of distinctive character and or use of a geographical name and or reflecting a national emblem.

And/or

According to the discretionary powers of the Registrar

And/or

Similarity as to an "earlier" registered trademark either on International level (Madrid Union), Community level or National level.





Upon rejection by the Registrar the applicant via his lawyer, may submit evidence in the form of an Affidavit to prove that the mark is in fact distinctive or to prove its fame. If, after this step, the Registrar maintains the rejection of the mark, then the applicant via his lawyer may request for judicial review of the Registrar's decision under article 146 of the Constitution at the Supreme Court of Cyprus in its revision-al jurisdiction.

Duration

A successful trademark is protected as from the date of its filing and not the date of its eventual registration.

A trademark is initially registered for 7 years. Thereafter it can be renewed every 14 years in order to remain valid. A reminder is usually sent to the owner of the trademark by the Cyprus Trade Mark Registrar that the renewal fees in respect of his trade mark(s) are due. Failure to renew a trademark will result in its removal from the Cyprus trademark register.

Infringement

Of registered trademarks by third parties can be restrained. Failure or refusal to stop infringement is dealt with by bringing an action for an injunction and or damages. The Court may grant other relief according to its discretion such as request submission of accounts evidencing any profits made by the infringing party by reason of the infringement. The registered owner need only show that his trademark is used without authority without having to prove actual damage to his business.

Of unregistered trademarks is not protected under the Law, though it may be relieved by bringing an action to the Court for the tort of passing off such as in situations of misleading and or false presentation of the products, in which case a fine may be imposed and or imprisonment.

Assignment

Of registered trademark is assignable under the law





- with a transfer of the whole or part or none of the goodwill of the business.
- In respect of whole or part of the goods or services

A recorded assignment is effective against third parties

Of unregistered trademark is assignable under the law with a transfer of the whole or part or none of the goodwill of the business provided that at the time of its assignment the unregistered mark is used in the same business as a registered trademark and is assigned at the same time and to the same person as the registered trademark. Assignments of pending marks will however only be recorded by the Registrar's Office once they have matured to registration.

Licensing

- Is permitted in exactly the same manner as in the UK
- It should be recorded in order to be effective against third parties

Industrial Designs

Nature

Its registrability depends on being appealing to the eye in terms of aesthetics. Its registration does not protect the technical features of the product.

National Law and Guidelines

No independent statutory vehicle for registration of designs in Cyprus existed until recently:

- The Law on the Protection of Designs and Models No. 4(I)/2002 adopting the provisions of EU Directive 98/71 of 13.10.1998 thus bringing Cyprus in line with other European countries
- Prior to its enactment the UK Designs (Protection) Law applied





Why Protect Industrial Designs

- Exclusive right of use by its owner
- Legal protection over unauthorised imitation of the design by third parties
- Legal protection over unauthorised use of the design by third parties
- Infringement may cause an action for injunction and/or damages
- Upgrading the commercial value of a product

What May be Protected as a Design in Cyprus

A new and of individual character

- design or Model defined as the whole or part appearance of a product resulting from features such as colours, shape, texture, contours
- product defined as industrial or handicraft including parts to be assembled, packaging, get-up, graphic symbols and typographical typefaces.

which are not against morals or ethics

Application of Registration

An application is submitted by an individual or a legal entity whether being

- the designer
- the person to whom the design was commissioned
- the employer of the designer, if the design was made in the course of employment

Whether being

- A Cypriot national
- An EU national
- Individuals habitually domiciled in Cyprus or in any EU member state
- Legal entities that have a real or effective commercial establishment in Cyprus or in any EU member state.





A preliminary search may be carried out to identify clear and solid grounds for a successful application

The application is accompanied with:

- An Authorisation of Agent form signed by the client authorising the lawyer to act on his behalf. Where the applicant is a legal entity the Authorisation of Agent must also be sealed with the Company's seal.
- Full details of the applicant's name, address, nationality (and nature of business in case the applicant is a corporation)
- A clear photographical and or graphical reproduction and or description of the design or model or product to be covered by the application
- Certified document by the relevant authority to confirm priority right if available with certified translation in Greek
- Respective fee

The Registrar In Practise

- Appoints a filing date
- Conducts a search to establish registrability

The applicant is given 4 months from the filing date to "complete" his application and vacancies and or correct any defects and pay the respective fee. Otherwise the Registrar rejects an "incomplete" application.

The Minister of Commerce has the right to adjust any details relating to the application by a respective Order which is published to the Official Gazette.

Duration

Designs may be protected for an initial period of 5 years. This is renewable every five years up to a maximum duration of 25 years.





Assignment Of Rights

Is permitted either via an Agreement of Assignment in writing or an inheritance.

Patents

1. Nature

The exclusive right to an inventor to use, distribute or sell a new invention and to stop third parties from doing so without his permission.

It can be a product or a process

Cyprus Memberships

- The Paris Convention for the Protection of Industrial Property
- The European Patent Office (EPO)
- Patent Cooperation Treaty (PCT)
- The European Patent Convention (EPC)

National Law And Guidelines

Patents Law of 1998 as supplemented by Regulations 46/1999 and amended by Laws 21(I)/1999, 153(I)/2000 and 163(I)/2002.

Until 1998, registration of a patent in Cyprus required registration in UK.

Law provides for

- a direct application for registration through the Cyprus Patent Office
- the validation of a granted European patent in Cyprus
- claiming priority rights (in accordance with the Paris Convention for the Protection of Industrial Property) for Patent Applications already filed in other signatory states.





- the issuing of Supplementary Protection Certificates for medicinal products, thus extending the protection of the medicinal product for a maximum of 5 years once the patent protection period expires. An application for a Supplementary Protection Certificate can only be made if the product is already protected with a patent in Cyprus and has already been granted permission to be circulated in the market.

The Amending Laws have brought the following major changes to Cyprus Patent Legislation:

- Law No. 153(I)/2000 introduced supplementary protection certificates in respect of plant protection products. The same rules apply as above.
- Law No. 163(I)/2002 harmonises the Basic Law with European Directive 98/44 on the protection of biotechnological inventions.

Why protect a patent

- Right to stop third parties from unauthorised selling, using, offering, importing, licensing or assigning the patented invention
- Right to sell, use, offer, import, license or assign under agreed terms and or by payment of royalties
- Legal action against infringing parties and claiming an injunction and/or damages.
- The existence of a patent may deter infringement from third parties.

What may be registered as a patent in cyprus

- New
- Novel
- Involve an inventive step which is not obvious
- Not available to the public
- Be capable of industrial application
- Comply with public order and morality





Application of Registration

Local Applicants

An Application is submitted

- By any natural person or a corporation
- Only via a lawyer member of the Cyprus Bar Association, practising law in Cyprus

together with

- An Authorisation of Agent form signed by the client authorising the lawyer to act on his behalf. Where the applicant is a legal entity the Authorisation of Agent must also be sealed with the Company's seal.
- Application in duplicate
- Form P9
- Name, address and nationality of the applicant, inventor and the representative.
- A short and synoptic title of the invention
- Accurate and precise description of the patent and its use in Greek (and in English certified translation)
- Claims which must be specific as to the extend of protection to be conferred
- Any drawings
- An informative abstract of the invention
- Copy of previous application under "priority right" system if available
- A statement that the applicant is the inventor or if not so, a justification statement of the applicant's right to apply together with details of the inventor
- Certified document by the relevant authority to confirm priority right if available, under the Paris Convention, with certified Greek translation
- Respective Fee

Foreign Applicants

As a rule they seek the validation of a patent already granted in Europe. A PCT application will be accepted by the Cyprus Patent Office only if it is a granted European Patent.





An Application is submitted

- By any natural person or a corporation
- Only via a lawyer member of the Cyprus Bar Association, practising law in Cyprus

within 3 months of the grant of the European patent

Together with

- An Authorisation of Agent form signed by the client authorising the lawyer to act on his behalf. Where the applicant is a legal entity the Authorisation of Agent must also be sealed with the Company's seal.
- Form P8
- Form P17
- a copy of the granted patent in either of French, English or German language (B1)
- an Affidavit of the representative lawyer confirming the true translation or that he has translated the granted patent in Greek language
- The affidavit must be accompanied by a translation of the granted patent into the Greek language. This translation must include the text, the claims, the drawings (if any) and the abstract of the patent. (A translation can be made before the application is dispatched to Cyprus or can be undertaken by professional translators in Cyprus).
- Respective fee

The Patent Office In Practise

Upon filing of the application

- The Examiner examines it in order to declare compliance with the relevant formalities
- The Application is published at the end of 18 months after filing date or priority date
- The Examiner will present his report to the Registrar





- Applicant will be informed accordingly and he is given the right to make amendments prior to the Registrar's refusal to his application and to remedy any defects
- If all the formalities are met a Search is carried out to the European Patent Office completed within 6 months to check upon worthiness of registration of the patent upon payment of the respective fee

The Registrar

- may accept the application
- reject it altogether

If the Registrar accepts:

- Then the patent is granted upon payment of the respective fee and
- Proceed with its publication to the Cyprus Official Gazette together with the search report

If the Registrar rejects it

- The applicant may apply for judicial review of the decision at the Supreme Court.

Procedure may take 3 years to be completed or longer if any complications arise during the process

Duration

For 20 years from the date of filing of the application and is subject to payment of an annual maintenance fee.

Protection is conferred as from the date of application to the Registrar





The Licensee

May initiate proceedings for violation of his rights through the owner of the patent in case of infringement

Compulsory Licensing

The patented invention must be exploited within 4 years as from the date of the patent. Failure to comply, the interested party may apply for a grant of a Compulsory license

Copyright

Definition

Protects creations such as works of art, literature, music, broadcasts and computer software against copying and certain other uses.

Memberships

- Universal Copyright Convention
- Berne Convention for the Protection of Literary and Artistic Works

National Law and Guidelines

Right to Intellectual Property Law 18(I)/1993 ('The Basic Law') as amended by Law 128(I)/2002. ('The Amending Law').

The Amending law, has adopted various EC Directives thus bringing Cypriot legislation in line with European Copyright legislation.

Protection is Automatic

- No formalities for the registration of Copyright are required.
- No central authority or register for the registration of copyright in Cyprus exists
- No fees to pay
- No forms to fill in.





Work must

- Be put down in writing and generally has acquired some permanent physical form. Ideas can, therefore, not be protected by copyright.
- Work is original that is if it is the personal intellectual creation of the creator himself and not a mere reproduction of an already existing idea, procedure, system or method.

Although not requiring any formal registration, most Copyrighted works are followed by the Copyright symbol © internationally.

What can be Protected as a Copyright In Cyprus

- Scientific works
- Literary works, including computer programs
- Musical works
- Artistic works, including photographs of every nature.
- Movies
- Databases
- Recordings
- Broadcasts
- Publication of previously unpublished work.

Who can be Protected

- Citizens of the Republic of Cyprus
- People who have their habitual or ordinary residence in Cyprus.
- Corporations registered in the Republic of Cyprus.
- Citizens of the European Union.
- Legal persons of the European Union provided that these are irrevocably affiliated with the economy of the relevant member state in which they were first incorporated.
- Persons under the Berne Convention and the Universal Copyright Convention





Infringement

It takes place if without the owner's express authority a person knowingly:

- Entices or allows a third party to act in a manner inconsistent with the owner's rights
- imports into or exports out of the Republic infringing copies for use (other than personal or home use)
- distributes
- rents or borrows
- transmits to the public
- publicly displays
- advertises in any way

Remedy to its owner/assignee/exclusive licensee to:

- Award of damages according to Courts discretion
- Fines
- The infringing party may also serve a term of imprisonment with or without paying damages.
- Injunction
- Damages
- Deposit of accounts, evidencing any profits made by the infringing party by reason of the infringement.
- Delivery up and destruction of infringing material
- Preventative remedies (power of search and seizure of infringing material and anticipatory injunctions)

Duration

Protection of the aforementioned works extends to different terms of years (depending on the work in question) to several years beyond the creator's own death, therefore benefiting the creator's ancestors through the collection of royalties.





Scientific, Literary, Musical or Artistic works (other than photographs) are protected for the author's life plus 50 years from the end of the year in which the author dies. Cinematograph films and photographs are protected for the author's life plus 50 years from the end of the year in which the work was first published. Sound recording and broadcasts 20 years from the end of the year in which they were recorded or made.





Who to Contact**Christodoulos Vassiliades**

Christodoulos Vassiliades is an Attorney-at-Law practising in the fields of corporate law, trust law, banking, tax law, shipping law and other commercial matters. He has extensive experience in the use of Cyprus Offshore Companies, double tax treaties and international tax planning.

Tel: +357 22 55 66 66

Fax: +357 22 55 67 67

E-mail: cyprus@ocra.com





© Copyright OCRA (Isle of Man) Limited

CAUTION: The information in this booklet does not create a precedent. It is intended only as a general Guide and is not to be relied upon as the basis for any decision or outcome on the subject matter. Professional advice and consultation by Lawyers as applicable to the specific matter in question and in accordance to the laws and regulations in force at that time, must be obtained.