

# A Basic Guide for a Mark Application

A mark is defined as a visible sign that is capable of distinguishing goods (trade mark) or services (service mark) of an enterprise. It can be words, figures, images or a combination of all or any of those. Once a mark is registered, it is protected for ten years from the date that the application was filed and can be renewed for consecutive periods of ten years.

## The Procedure

1. Applicants are required to submit:
  - A. A statement from the owner of the mark<sup>1</sup> in support of the application
  - B. A sworn declaration from the owner of the mark supporting the statement
  - C. Copies of the mark to be registered. If colours are important to the mark, please provide colour copies
  - D. A cheque with the relevant fees

Applicants are not required to submit a cover letter outlining which documents which have been submitted but it is advised for completion of files. We are legally obliged to acknowledge receipt of your application.

2. The prospective mark will be examined by the IPOSKN to ascertain whether it meets the requirements of the Marks, Collective Marks and Trade Names Act (Cap. 18.22). A mark cannot be registered if it is:
  - A. Incapable of distinguishing the goods and services of one enterprise from another
  - B. Contrary to public order or morality
  - C. Likely to mislead the public or trade circles, in particular, as regards the geographical origin of goods or services concerned or their nature or characteristics;
  - D. identical to, or is an imitation of, or contains as an element, an armorial bearing, flag or other emblem, a name or abbreviation or initials of the name of or official sign or hallmark adopted by, any State, inter-governmental Organisation or Organisation created by an international convention, unless authorised by the competent authority of that State or Organisation;
  - E. Identical to, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in Saint Christopher and Nevis for identical or similar goods or services of another enterprise, or if it is well-known and registered in Saint Christopher for goods or services which are

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<sup>1</sup> Or a duly authorized representative where the owner/proprietor is a company, group or organization

not identical, or similar to those in respect of which registration is applied for, provided, in the latter case, that

(i) use of the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark; and

(ii) the interests of the owner of the well-known mark are likely to be prejudiced by such use; or

- F. identical to a mark belonging to a different owner and already on the Register, or with an earlier filing or priority date, in respect of the same goods or services or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion.

Before submitting an application, applicants are advised to visit the IPOSKN to conduct a search of the Register of Marks to ascertain whether their mark conflicts or is likely to conflict with a previously registered mark.

### **The Nice Classification**

You must note that marks are also classified according to the international classification of goods and services called the Nice Classification. A registered mark has protection according to the particular class that it is registered so for example if “Blue Cup” is registered in Class 9 for computers, no other computers or products in Class 9 can register that name or something that is confusingly similar to it. However, if there is a catering company called “Blue Cup” seeking protection in Class 43, it may be registered if the Registrar determines that to register the catering company mark would not mislead or confuse the public on the origin of the respective goods and services. The Nice Classification can be found at:

<http://www.wipo.int/classifications/nice/en/>

The class(es) that you wish to register your mark in must be identified in the relevant application documents (see templates attached).

3. If the prospective mark passes the formalities tests, it will proceed to publication in the official Gazette for a period of three months. During that time, any interested person can file a notice of opposition with our Office in which they should outline reasons why they object to the registration of the prospective mark. If such an objection is duly submitted, the applicant will be given an opportunity to respond and the Registrar will make a determination on whether the mark should be registered.
4. If no notices of opposition are received, the proposed mark is ripe for registration. The applicant will then be required to pay the registration and certification fees forthwith, if he has not done so before. On receipt of those funds, the mark will be registered and a certificate of registration issued.

**TEMPLATE**

THE INTELLECTUAL PROPERTY OFFICE

ST. CHRISTOPHER AND NEVIS

A.D. 2018

In the Matter of an Application under the Marks, Collective Marks and Trade Names Act (Cap. 18.22) for the Registration of the word/image mark (word only/stylized)by (Name of Proprietor) in Class(es) xyz

**STATEMENT ON APPLICATION FOR REGISTRATION OF A TRADE MARK**

I, .....(name of trademark proprietor)....., of .....(address)..... apply to be registered as proprietor of a trademark which is represented in the paper annexed hereto.

I desire that the said trade mark may be registered in respect of the description of goods following, contained in the following Class/Classes:

Class .....(class number)....., that is to say in favour of .....(class descriptions which apply).....

The description of the goods/services that the said mark will be attached is:

.....  
.....  
.....

I have used the said trade mark in respect of the said goods/services for .....(number)..... years before the date of this statement.

Dated the ..... day of ..... 2018

.....  
Signature

**TEMPLATE**

THE INTELLECTUAL PROPERTY OFFICE

ST. CHRISTOPHER AND NEVIS

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and Trade Names Act (Cap. 18.22)  
for the Registration of a word/image (word only/stylized) by  
(Name of Proprietor) in Class(es) xyz

**DECLARATION TO ACCOMPANY STATEMENT ON APPLICATION FOR REGISTRATION OF A  
TRADE MARK**

I, .....(name of trademark proprietor)....., of .....(address)..... do hereby and solemnly  
and sincerely declare, to the best of my knowledge and belief as follows:

1. The statement signed by me and dated the ..... day of ..... 2018 and  
marked with the letter "A" and shown to me at the time of making this declaration is  
true.
2. The description of the trade mark in such statement is a true description of the trade  
mark for the registration of which I apply.
3. I am lawfully entitled to the use of the trade mark of which the said description is a  
true description.

SWORN by (name of trademark proprietor)

On this ..... day of ..... 2018

.....

At the High Court Registry at East Independence  
Square Street, Basseterre, St. Kitts

(Signature)

BEFORE ME:

(Name and signature of Commissioner of Oaths)

## Fees

Item	\$   ¢
1. Application fee for one trade mark or service mark or the first of a number of applications being filed simultaneously (including one class) .....	500.00
2. Application fee for a second and subsequent application filed simultaneously with a first application ..	300.00
3. In every application, for every class after the first class to which such trade mark or service mark is intended, an additional fee of .....	50.00
4. For registration of one trade mark or service mark (including one class) .....	240.00
5. For registration of each additional mark after the first (including one class) .....	100.00
6. In every application, for registration of each class after the first, an additional fee of .....	30.00
7. For entering notice of opposition .....	250.00
8. For registering subsequent proprietor .....	240.00
9. For altering address on the register.....	60.00
10. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged.....	120.00
11. For continuance of mark at the expiration of ten years ...	400.00
12. Additional fee where a fee is paid within the grace period granted by the Registrar (period not to exceed six months after expiration of ten years) .....	240.00
13. Additional fee for the restoration of trade mark, or service mark when removed for non-payment of fee .....	400.00
14. For certificate of registration or renewal .....	240.00
15. For inspecting register, for every fifteen minutes .....	15.00
16. For office copy of document, per folio .....	2.00
17. Settling a special case by Registrar .....	400.00