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FUNCTIONS AND SERVICES OF NATIONAL INTELLECTUAL PROPERTY OFFICES

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CONTENTS

	<u>page</u>
I. Introduction	3-4
II. The Development of the Intellectual Property System in Barbados	4-5
III. Functions and Services Provided by the Corporate Affairs & Intellectual Property Office	5-6
IV. Trademark Processing	6-11
V. Patents Processing	11-12
VI. Industrial Designs	12
VII. Promotion of Intellectual Property Rights	12-13
VII. Conclusion	14
<i>Annex 1</i> - List of Enactments Administered by CAIPO	15
<i>Annex 2</i> - Annual Activity Statistics and Key Performance Indicators for the Corporate Registry	16
<i>Annex 3</i> - Annual Activity Statistics and Key Performance Indicators for the Intellectual Property Office	17

I. INTRODUCTION

1. It has been said¹ that overall, no two countries in the world handle the registration of industrial property rights (patents, trademarks, and other rights such as industrial designs, utility models, geographical indications or plant variety rights) in exactly the same way.

2. At one end of the scale, there are countries with one or more specialized industrial property offices falling within the general responsibilities of separate registrars with a wide range of different registration responsibilities. Accordingly, some countries have separate offices for patents and trademarks, and designs may be handled by one or other of these offices. Plant variety rights in particular may also be registered by a different office², often in the department of agriculture. Some patent and trademark offices also have responsibility for copyright matters³, though in general copyright is often within the responsibility of departments of culture or education. Intellectual property offices may have other responsibilities linked to industry, such as approving company formations, registering company names, approving and registering licence and technology transfer agreements and more general registration responsibilities.

3. At the other end of the scale, there are some countries where there is no special office⁴ and the work is handled by a division or section within a civil service department such as the department of commerce or the attorney general's department⁵. The majority of countries have only one specialized industrial property office (quite often called the patent and trademark office⁶, though increasingly more and more countries are re-naming their offices as industrial or intellectual property offices⁷ or services).

4. Historically in most Caribbean states, responsibility for the registration of trademarks, patents and industrial designs has, from colonial times, rested with the Registrar of the High Court. However, with a view to increasing efficiency and streamlining operations, three Commonwealth Caribbean states⁸, have since independence, taken the decision to remove responsibility for intellectual property as well as the incorporation of companies from the Supreme Court Registry. In the case of Trinidad & Tobago, the incorporation of companies and intellectual property were placed under the responsibility of separate registrars, while in Jamaica and Barbados, the Registrar of Companies was also given responsibility for intellectual property matters. However, in the rest of the Caribbean, with the dawn of the twenty-first century fast approaching, not much has changed for the majority of Registrars of the High Court, who still find themselves burdened with responsibility for the registration of

¹ See generally the document entitled "*National Capacity Building of Intellectual Property Offices*" prepared by Alec Sugden, Intellectual Property Consultant, Essex, United Kingdom and delivered at the WIPO Seminar on National Capacity Building of Intellectual Property Offices of Caribbean Countries held in Bridgetown, November 18, 1998;

² As in the United Kingdom and Canada;

³ As in the United Kingdom;

⁴ See paragraph 1 on page 1 of document referred to at footnote 1;

⁵ Such is the state of affairs in Belize and Guyana, and in many of the Eastern Caribbean states such as Antigua & Barbuda, Dominica, Grenada, St. Lucia, St. Kitts & Nevis and St. Vincent & the Grenadines;

⁶ As for example the United States Patent and Trademark Office (USPTO); and the United Kingdom Trademark and Patents Office, which also handles copyright issues;

⁷ As for example the Canadian Intellectual Property Office (CIPO);

⁸ Namely, Trinidad & Tobago, Jamaica and Barbados;

patents, trademarks and industrial designs, in addition to the registration of deeds, conveyances, companies and the day-to-day administration of the entire court system!!!

5. Happily however, it appears that trade globalization and the TRIPS Agreement will propel the administration of intellectual property rights in these countries into the twenty-first century, and hopefully bring some relief to the overburdened High Court Registrars in the region. This is because, by virtue of Article 2.1 of the TRIPS Agreement⁹ all countries which either belong to or are seeking membership of the World Trade Organization (WTO) are (in respect of their obligations under Parts II, III, and IV of that Agreement) required to comply with Articles 1 through 12, and Article 19, of the Paris Convention¹⁰ for the Protection of Industrial Property. In particular, Article 12 of the Paris Convention requires member countries to establish a special industrial property service and a central office for the communication of patents, utility models, industrial designs and trademarks to the public. It is understood that following the Barbados model, Dominica, St. Lucia and Grenada have each taken the decision to establish a Corporate Affairs and Intellectual Property Office, separate and apart from the High Court, with its own Registrar. It is understood that separate accommodation has been located in each of these territories and that the establishment and staffing arrangements for these Offices should shortly be finalized.

II. THE DEVELOPMENT OF THE INTELLECTUAL PROPERTY SYSTEM IN BARBADOS

6. Barbados has always been interested in providing the appropriate regime for the protection of intellectual property rights and has had legislation in the field of intellectual property rights for much of the twentieth century. A significant milestone in the development of Barbados' intellectual property system took place in 1979 when Barbados became a signatory to the Convention establishing the World Intellectual Property Organization. Thereafter, Barbados embarked on a conscious policy of modernizing its system of intellectual property rights by bringing its legislative framework¹¹ into line with international treaties for the protection of intellectual property.

7. Another significant step towards modernization of Barbados' intellectual property system occurred in 1988 with the enactment of the Corporate Affairs and Intellectual Property Office Act, Cap. 21A. which established the Corporate Affairs and Intellectual Property Office as a separate department with its own Registrar¹². Prior to that year, the department's many functions were performed within the Supreme Court Registration Department, headed by the Registrar of the Supreme Court. The department is headed by the Registrar of Corporate Affairs and Intellectual Property and comprises two (2) functionally distinct sections, namely, the Corporate Affairs Section (more often referred to as "the Corporate Registry") and the Intellectual Property Section (which has overall responsibility for trademarks, patents, industrial designs, and most recently, for copyright issues.)

⁹ The WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) 1994;

¹⁰ The Paris Convention for the Protection of Industrial Property 1883 as amended and replaced in 1967;

¹¹ Three new Acts were passed in 1981 providing respectively for the registration of trade and service marks, patents and industrial designs and facilitating Barbados' adherence to the Paris Convention for the Protection of Industrial Property 1883 and membership of the Patent Cooperation Treaty. The following year, the Copyright Act, 1982 was passed giving effect to Barbados' obligations under the Berne Convention for the Protection of Literary and Artistic Works.

¹² Under the Act, the Registrar is responsible for the administration of the Corporate Affairs and Intellectual Property Office, assisted by the Assistant Registrar and such other officers as are necessary "...for the purpose of carrying out the functions of the Registrar under the Act and under any other enactment vesting duties, authority and responsibility in the Registrar ". Administratively, the Registrar reports to the Permanent Secretary of the Ministry of Industry & International Business having overall responsibility for the Department.

8. In addition to enabling Barbados to comply with its obligations under Article 12 of the Paris Convention, the creation of a separate department to handle corporate affairs and intellectual property matters has had several positive advantages, including the development of a more specialized and knowledgeable team of professionals administering both company and intellectual property matters.

9. Government's commitment to enhancing the intellectual property rights regime in Barbados has been demonstrated by the approval in 1996 of a Plan for the Restructuring of the Corporate Affairs & Intellectual Property Office. Elements of the Plan included the physical relocation of the Office to more appropriate premises, a commitment to computerization of the working procedures within the Department as a whole, as well as the creation of several new posts, all of which have been filled. At present, the Registrar is assisted in the Intellectual Property Section by a Deputy Registrar, two Corporate Affairs Officers, two Clerical Officers and two Stenographer/Typists.

10. In late 1998, Cabinet gave its approval to a plan for the further strengthening of the Intellectual Property Office involving the creation therein of a specialized Copyright Unit dedicated to the promotion of public awareness about copyright issues. An additional post of Deputy Registrar, has since been created and should shortly be advertised. The Unit will bring Barbados in line with other countries¹³ where this method of copyright administration is already a reality. The Copyright Unit will be charged with following the ongoing work of the World Intellectual Property Organization in the area of copyright and related rights and with monitoring international developments and trends in these areas.

11. The Copyright Unit will, *inter alia*, produce and disseminate informational material on intellectual property rights in general and particularly in relation to copyright and will through out-reach seminars and other programs, proactively attempt to develop an awareness and respect for copyright and intellectual property rights in general among the local populace. Additionally, the Unit will support the work of the Copyright Tribunal to be established under the new Copyright Act which came into force in 1998.

III. FUNCTIONS AND SERVICES PROVIDED BY THE CORPORATE AFFAIRS & INTELLECTUAL PROPERTY OFFICE

12. The functions and services provided by the Barbados Corporate Affairs and Intellectual Property Office may largely be defined by the range of statutory responsibilities assigned to the Registrar under the Corporate Affairs & Intellectual Property Office Act, Cap. 21A. Currently, the Registrar of Corporate Affairs & Intellectual Property Office has responsibilities under some twenty-nine (29) enactments relating broadly to the incorporation or registration of companies and a variety of other associations, and intellectual property matters¹⁴. For convenience, the Registrar's functions may be classified under two main

¹³ Notably, Jamaica, Trinidad & Tobago and the United Kingdom;

¹⁴ See ANNEX 1 hereto for a list of enactments administered by the Department;

headings, firstly, those functions relating to the administration of the Corporate Registry¹⁵, and secondly, those functions relating to the operations of the Intellectual Property Section¹⁶.

13. In addition to the various functions in the Corporate Registry and the Intellectual Property Office, the Registrar, the Assistant Registrar and the two Deputy Registrars perform general function as adjudicators of Government stamp duty and property transfer tax under the Stamp Duty Act, Cap. 91 and the Property Transfer Tax Act, Cap. 84A and provide notarial services in their capacity as notaries public under the Corporate Affairs & Intellectual Property office, Cap. 21A. Additionally, since the Public Documents (Exemption from Diplomatic or Consular legalization) Act came into force in 1997, the Registrar and clerical staff have been required to process, issue and keep an official record of hundreds of Apostilles as required under the Hague Convention. Prior to the commencement of this Act, the certification of public documents issuing from the Registry was a function which would ordinarily have been performed within the Ministry of Foreign Affairs, or by diplomatic embassies or consular offices.

14. The available statistical information for the Corporate Affairs and Intellectual Property Office over the twelve (12) years of its existence as a separate department of government, suggests that the Office is continuing to play a crucial supporting role in the conduct of local and international trade and business in a variety of areas. It would also appear that as the volume of commercial activity in Barbados has increased, this has inevitably been reflected in the Department's records, whether in the form of an increase in the incorporation and registration of companies or business names, or in the form of an increase in the volume of Bills of Sale and company charges or in the number of trade marks or patents which are filed with the Registrar. A review of the available records over the past twelve (12) years¹⁷ will support the view that steady growth and a general increase in workload has occurred in all areas of the Department's operations. For purposes of this presentation, I propose to concentrate solely on the functions and services performed within the Intellectual Property Section.

IV. TRADEMARK PROCESSING

15. The statistical information for the Intellectual Property Office¹⁸ confirms that the Department continues to record its most significant intellectual property activity in the area of trade marks administration. Over the past twelve (12) years, there have been significant increases in every aspect of the trade mark administration work required to be performed in the Registry. Applications for registration increased from 689 in 1993 to an all time high of 1,041 in 1998. Renewal activity has also increased from 174 applications in 1993, to 480 in 1995 and a record 617 renewal applications were filed in 1998.

¹⁵ The main enactments administered in the Corporate Registry include the Companies A, Cap. 308 and the Companies Regulation thereunder, the Registration of Business Names Act, Cap. 317, the Bills of Sale Act, Cap. 3 06, the Registration of Newspapers Act, Cap. 3 02, the Trade Unions Act, Cap. 3 6 1, the Pharmacy Act, Cap. 372D, the Charities Act, Cap. 243, and the Small Business Development Act, 1999.

¹⁶ The main enactments administered in the Intellectual Property Section include the Trade Marks Act, Cap. 319, the Patents Act, Cap. 314, the Industrial Designs Act, Cap. 319A, the Copyright Act, 1998.

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¹⁸

16. The trade mark registration process in Barbados commences with the filing of an Application for Registration of a Mark in the prescribed form [Form 3] and payment of the prescribed application fee (currently \$75.00).

17. Sections 10, 12 and 13 of the Barbados Trade Marks Act, Cap. 319¹⁹ set out certain formalities relating to:

- the contents of the application¹⁹;
- the filing of applications by agents²⁰;
- claims to the priority date of an earlier application made in a Paris Convention country²¹,
- the special situation where the applicant is desirous of claiming as his filing date an earlier date which coincides with the date on which his goods or services were first exhibited at an officially recognized national or international exhibition²².

18. Following receipt of the application, the Director is mandated by section 14 of the Act to carry out a **Form Examination**. At this stage, the documentation is checked to determine whether the formality requirements in sections 10, 12, and, if relevant, section 13 have been complied with. Where priority is claimed on the basis of a foreign filing, the formality examination will ensure that the application is filed in time and that the claimed goods or services are no wider than those on which the priority claim is based. Where the applicant fails to comply with the formalities, the Director may refuse to accept the application, fail to mention the priority claim or

19. Following a determination under section 14 that the application complies with the requirements of section 10 of the Act, the Director must proceed under section 15 to conduct a **Substance Examination** of the mark. At this stage the Director is required to determine whether the mark can be registered under the Act having regard to the similarity criteria²³ and intrinsic defects²⁴ set out in sections 8 and 9 of the Act which would render the mark unregistrable.

20. What usually happens in practice is that upon receipt of a trade mark application along with the prescribed fee, staff in the Intellectual Property Registry, perform a number of preliminary checks and searches before the application is forwarded to the Deputy Registrar for examination. The preliminary checks conducted by Registry staff include the following:-

¹⁹ Act No. 56 of 1981 which commenced on 1 January 1985;

²⁰ See section 10(2) of the Trade Marks Act Cap. 319 which sets out the contents of the application. Also refer to sections 4 and 19 of the Trade Marks Regulations, 1984 and Form 3 of the Schedule II for the prescribed form.

²¹ See section 12 which stipulates that claims to priority must be accompanied by a written statement or declaration giving details of the date and number, priority country etc. of the earlier application and containing an undertaking to furnish the Director with a certified copy of the priority documents. See section 10(3) which stipulates that the applications filed by agents must be accompanied by a power of attorney;

²² See section 13 of Cap. 319.

²³ By virtue of section 8 of Cap. 319, applications may not be made, *inter alia*, for the registration of marks which resemble in such a way as to be likely to mislead the public a mark of another person which is registered or pending under the Act, or for the registration of marks which resemble an unregistered mark in use in Barbados at an earlier period in connection with identical or similar goods.

²⁴ Section 9 of Cap. 319 set out the inherent or intrinsic defects which would render the trade mark unregistrable. These include marks which consist exclusively of a sign or indication that might serve, in the course of trade or business to designate the kind, quality, quantity, purpose, value, place of origin of, or time of supply of, the goods or services to which the mark relates, or marks which exclusively consist of a sign or indication which has become in current language or in *bona fide* business practice in Barbados, a customary designation of the goods or services to which the mark relates..."

- carrying out a preliminary check of the application to ensure that the formalities set out in sections 10 (2) (a), (b) and (C) and section 10(3) of the Act are in order²⁵;
- checking the priority claim to ensure that the matters set out in section 12(1) and (2) are complied with;
- searching the Business Names Register in the Corporate records for the existence of any similar or identical pre-existing business names registered under the Registration of Business Names Act, Cap. 317²⁶;
- searching the Office records for registered marks and pending applications on record in order to ascertain whether there are identical or similar marks in respect of the same or similar goods or services as those covered by the mark applied for which might mislead the public²⁷.

21. Following the preliminary check of the file by Registry staff, the file is then minuted to the Deputy Registrar in the Intellectual Property section for the conduct of the Form and Substance Examinations in accordance with sections 14 and 15 of the Act.

22. When a mark applied for contains a word in a language other than English, a translation must be endorsed on the application form. The Director will not embark upon the Form or Substance Examination unless the mark is translated as required by section 21(2) of the Trade Marks Regulations, 1984.

23. Following the Form and Substance Examinations and consideration of the application by the Deputy Registrar, the following situations may result:

- the application may be accepted absolutely²⁸;
- where the Director determines that the application or the registration of the mark would contravene section 8 or 9 of the Act, the Director shall refuse registration and inform the applicant by notice in writing why the application cannot be registered in Barbados and invite the applicant either to withdraw the application or to present within 60 days, the applicant's comments on the Director's reasons for the refusal of the mark;
- the Director may write to the applicant requesting the applicant to furnish evidence of use or of distinctiveness or of any other matter²⁹;

²⁵ Under section 10(2)(d) of the Act, a preliminary check is also made to ensure that the goods and services applied for correspond to the correct international classification under the Nice Agreement.

²⁶ See section 8(1)(c) of Cap. 319 which provides that an application may not be made under the Act for registration of marks that resemble, in such a way as to be likely to mislead the public, a business name registered under the Registration of Business Names Act, Cap. 317 and in use in Barbados by another person.

²⁷ See section 25(1) of the Trade Marks Regulation, 1984 governing the procedure on receiving an application for registration. Currently, the search of the register is done in a computerized trade marks database obtained from WIPO some years ago. A computerized print-out of the search results showing the estimated percentage similarity of the registered and pending marks on record is generated and placed on file for examination by the Deputy Registrar during the substance examination.

²⁸ In this event the Director will require that the application proceed to publication. See section 16 of Cap. 319 which sets out the procedure which follows a determination by the Director that all the requirements governing registration have been met.

²⁹ See section 26 of the Trade Marks Regulations, 1984.

- where the Director is willing to accept an application if it is subjected to any condition, amendment, disclaimer, modification or limitation, the Director may communicate the condition in writing to the applicant³⁰.

24. Where the applicant fails to withdraw the application or to present his comments on the Director's reasons for refusal to accept the application or to register the mark within the 60 day period stipulated in the section 15 Notice the Director may refuse to register the mark³¹. Even where the applicant presents his comments and the Director is of the View that the mark ought not to be accepted or registered, the Director may similarly refuse to accept the application or to register the mark³². Where after considering any comments presented by the applicant, the Director is prepared to approve the registration in respect of a part of the goods, or, as the case requires, some of the services mentioned in the application, the Director may approve the application in respect of the part of the goods or services for which the mark can be registered³³.

25. Upon receipt of the fee required under section 16(1) for publication of the application in the Official Gazette, the Director then causes the publication in the Official Gazette of notice of the application.

26. Section 17 of the Trade Marks Act, Cap. 319 sets down the requirements for launching opposition proceedings. Notice to oppose an advertised mark can only be accepted by the Director if it is filed with the Director within ninety (90) days from the date of publication of the Official Gazette Notice in the prescribed form (Form 6) and is accompanied by the prescribed filing fee [currently \$50.00]. The Director has no power or discretion to extend the ninety (90) day filing period, nor accept the Opposition Notice if it is not on Form 6 and accompanied by the appropriate fee.

27. If the Opposition Notice is filed within time and accepted by the Director, a certified copy is served on the Applicant who has 30 days to respond. In the absence of any Response or Answer being filed with the Director on the prescribed Form No 7 together with the prescribed fee, within the 30 days allowed, will result in the opposition to registration being allowed and the refusal of the application [Section 17(3)].

28. Section 18 of the Trade Marks Act, Cap. 319 requires that the Applicant and the Opposing person attend before the Director to hear the matter prior, to a decision being reached. In January 1999, the Registrar of the Corporate Affairs and Intellectual Property Office of Barbados issued a Practice Direction pursuant to section 55 of the Trade Marks Act and section 60 of the Trade Marks Regulations, 1984 to assist the Director to prepare for the hearing.

29. Under the said Practice Direction, parties to the hearing must furnish the Director no later than seven (7) days prior to the date fixed for the hearing with:

³⁰ See section 28 of the Trade Marks Regulation, 1984 for procedure on conditional acceptance.

³¹ See section 15(3)(a) of the Trade Marks Act, Cap. 319.

³² See section 15(3)(b) of the Trade Marks Act, Cap. 319.

³³ See section 15(4) of the Trade Marks Act, Cap. 319.

a) an Outline of the arguments to be submitted at the hearing, accompanied by a list of cases/legal authorities (if any) on which it is intended to rely;

b) a photocopy of all cases and appropriate extracts from legal texts etc. must also be submitted to the Director at the same time.

30. A copy of the Outline and the list of cases/authorities furnished to the Director should also be made available to the other party to the proceedings.

31. At the conclusion of the hearing, the Director may either register the mark that was opposed, or refuse its registration. The Director is obligated by reason of section 18(2) of the Act, to give written reasons for his or her decision.

32. Where all the requirements of the Act governing registration of a mark are complied with, the Applicant is entitled, on payment of the prescribed fee to have the mark registered.

33. Section 21(l) of the Trade Marks Act, Cap. 319 provides that a mark is registered when there is recorded in the Register, *inter alia*:

(a) a reproduction of the mark;

(b) the number of the mark;

(c) the name and address of the registered owner and his address for service, if he is resident outside of Barbados;

(d) the dates of application and registration of the mark;

(e) where priority is claimed, an indication of that fact and the number, date and country of the application with which the priority is connected.

34. When the mark is registered in the Register, a registration certificate is sent to the registered owner of the mark. Under Barbados law, the registration of a trademark is valid for ten (10) years and is subject to renewal for further periods of ten (10) years. As can be seen from the available statistical information, the Intellectual Property Section also provides annually, an increasing number of renewal notices to registered proprietors in respect of marks registered in the Register.

35. Other services performed in relation to registered marks include the recording in the Register of transfers or assignments of registered marks and the issuance of certificates in respect thereof³⁴. Additionally, where the owner of a registered mark issues a licence-contract granting another person a licence to use the mark, the licence-contract is void against other persons unless it is recorded in the Register³⁵. The Registrar therefore also provides statutory functions in relation to the recordal of licence-contracts.

V. PATENTS PROCESSING

³⁴ See sections 28-29 of the Trade Marks Act, Cap. 319.

³⁵ See section 30(2) of the Trade Marks Act, Cap. 319-1.

36. On average, the Corporate Affairs and Intellectual Property Office receives fifty (50) new patent applications each year, the majority of which are international applications filed under the Patent Cooperation Treaty. The Office also receives a number of local applications claiming the priority of an earlier filing date in a Paris Convention country, and very infrequently, a few local applications filed by local applicants, without priority, seeking a local grant of patent.

37. On receipt of the application fee together with the prescribed forms, the application is usually subjected to a preliminary examination in the Registry to ensure that the statutory formalities³⁶ have been complied with to justify the assignment of a filing date. A member of staff will then check the manual records to obtain the next available file number, assemble an office folder and enter in the Office records, basic data concerning the application, such as the applicant's name, the title of the invention and the priority date, if any.

38. After the file is assembled and the applicant or his agent is formally notified of the filing date which has been accorded to the application, the application is subjected to a form examination to ensure that nothing essential is missing which might affect the filing date or the applicant's right to file, such as incompletely filled-out application forms, missing drawings, inventors statement, missing pages or missing power of attorney or other authorisation of agent. Where such matters are discovered, the applicant or his agent is usually informed in writing of the defects in the application. Time limits for compliance are usually fixed by the Registrar in order to ensure that the application is proceeded with in a timely manner.

39. The application is then subjected to a substantive examination by the Registrar who is required to make a legal determination as to whether the invention meets the statutory requirements for the grant of a patent. This will entail a finding by the Registrar that the invention is new, expresses an inventive step and is industrially applicable.

40. In conducting the substance examination of international applications filed, under the Patent Cooperation Treaty, the Registrar will usually give considerable weight to the findings of the International Preliminary Examination Report (IPER) also referred to as the (Form 409). Where this report is not submitted by the patent agent, a letter requesting submission of the International Preliminary Examination Report will normally be sent to the patent agent requiring submission of the Report.

41. The findings of the International Preliminary Examination Report (IPER) are usually treated by the Registrar as highly persuasive on the issue of patentability. In cases where the Report indicates that all or only certain of the claims are new, express an inventive step or are industrially applicable, the Registrar will invariably grant the patent for all or some of the claims as the case may be, usually without making any further inquiries. Conversely, where the International Preliminary Examination Report indicates that one or all of the criteria for the grant of a patent are not met, the patent agent is notified that the claim cannot issue. Additional correspondence may then be entertained from the patent agent on the matter, and further investigations are conducted by the Registrar in relation thereto before a final determination is made.

³⁶ Such formalities include, *inter alia*, a request for a patent, the name and particulars of the applicant and a description.

42. The Intellectual Property Office has also been receiving from the European Patent Office and from the WIPO on a regular basis, CD-ROM collections which can assist the Registrar in determining the state of the prior art and in conducting the substantive examination of the invention.

43. Where the Registrar determines that a patent can be granted for an invention, the applicant is duly notified and upon payment of the prescribed fee for the grant, the Registrar causes notice of the grant of patent to be published in the Official Gazette. Following publication, a certificate of grant of patent is signed, sealed and issued to the applicant through his agent. A copy of the Patent Specifications issued by the Intellectual Property Office is also kept at the Department on a special Barbados Patents Specifications Folder which is available for inspection by interested members of the public.

44. In October 1998, staff in the Intellectual Property Office benefited from a one week mission to Barbados by an official from the European Patent Office who assisted staff with the classification and processing of the various categories of patent applications filed at the Office³⁷. As a result of this mission, the patents working procedures have been streamlined and work is ongoing in relation to the processing of the relatively small number of patent applications at the Office.

45. As is the case with trade marks, the Registrar also performs functions in relation to the recordal of transfers or other assignments of the ownership of granted patents and in relation to the vetting of licence-contracts.

VI. INDUSTRIAL DESIGNS

46. As is the case in the rest of the world, applications for the registration of industrial designs in Barbados are not examined very extensively. Nor does the law require the application to be published in the Official Gazette prior to the grant of a registration certificate. The Industrial Designs Act, Cap. 319A does however require the application to be examined by the Registrar who must determine as a matter of law whether the design meets the statutory criteria laid down in the Act for the registration of industrial designs.

47. A simple search of the registered and pending designs in the Office should usually be conducted prior to the Registrar's examination, to assist the Registrar in determining whether the design is in fact new. Currently, designs are granted protection for a period of five (5) years and are eligible to be renewed for two additional five year periods. However, under Article 26.3 of the TRIPS Agreement, industrial designs will become eligible for protection for an initial period of at least ten (10) years.

VII. PROMOTION OF INTELLECTUAL PROPERTY RIGHTS

48. In addition to performing its statutory functions in relation to the registration of trademarks and industrial designs and the grant of patents, the Department has in recent years been extremely conscious about the role which it can play in promoting general public awareness about intellectual property in Barbados.

³⁷ See paragraph 35 for the three (3) categories of patent applications filed at the Department.

49. Additionally, from a strategic point of view, the Department's other functions in the Corporate Registry in relation to the incorporation of companies and the registration of business names, make the Department the ideal venue for promoting the benefits of the intellectual property system to local businesses and entrepreneurs who are potential users of the system.

50. Because the Department interacts with the public on a daily basis, the staff in the Corporate Affairs and Intellectual Property Office as a whole are increasingly being called upon to answer numerous inquiries from members of the public, as well as from other departments of government, about various intellectual property issues. While it is not part of the Department's role to provide specific legal advice, general advice is frequently given in relation to trade mark, design and patent matters, as well as in relation to copyright issues.

51. In May 1998, the Department held a "Week of Activities" to mark the tenth (10th) anniversary of its legal existence under the Corporate Affairs & Intellectual Property Office Act, Cap. 21A. One highlight of the week included, an "Open Forum" which provided a unique opportunity for an exchange of ideas and information between staff in both sections of the Office and professional service providers, including patent and trademark agents. Staff members also prepared an attractive poster display and prepared and distributed Information Booklets which described for the public in simple, graphic terms the nature of Trade Marks, Patents and Industrial Designs. The poster display has not been taken down and remains in the public waiting areas where it can still be viewed by persons doing business with the Office. In addition, informational leaflets produced by WIPO on various aspects of intellectual property is also distributed to the public by staff members on request.

52. The professional members of staff in the Department regularly work with the **Barbados Investment and Development Corporation (BIDC)** in its various outreach seminars by preparing and presenting papers, and participating in BIDC sponsored Seminars on Industrial Property conducted for the benefit of local manufacturers, designers, small business persons as well as the public in general. Handouts and other informational material on intellectual property are also prepared and distributed at these public awareness raising events.

53. In August 1998, the Department in conjunction with the United States Information Service (USIS) and the Governor of the Central Bank, hosted a public lecture and panel discussion entitled "Intellectual Property Rights: A Key to Foreign Investment and Economic Development." The lecture was delivered by visiting lecturer from the United States, Dr. Jay Erstling and was followed by a useful panel discussion and numerous questions from the public.

54. The Department has and continues to use the services of the Government Information Service (GIS) in the issuing of press releases and in publicising various activities in the local media. Over the years, the GIS has been instrumental in producing a number of fifteen minute television documentaries on the role of the Department as well as in relation to specific intellectual property subjects all of which to promote intellectual property rights awareness among the public.

VIII. CONCLUSION

55. In conclusion, it may be said that over the years, the functions and services provided by Barbados' Intellectual Property Office have become more responsive to the needs of the local populace to learn more about the intellectual property rights system as a whole.

56. Aside from its primary focus in performing the several statutory functions and services set out in the several intellectual property statutes administered by the Department, the Corporate Affairs & Intellectual Property Office as a whole, also performs an important ancillary role in raising public awareness about intellectual property rights in general and in promoting the use of the intellectual property system by local businesses and entrepreneurs.

57. It is envisaged that when the Copyright Unit becomes fully operational, it will lend impetus and focus to the Department's out-reach efforts leading in time to an increased awareness of intellectual property rights, and an increased use of the system by more local businesses and innovators.

[End of document]

ANNEX I

List of Enactments Administered by CAIPO

1. The Corporate Affairs and Intellectual Property Act, Cap. 21A.
2. The Companies Act, Cap. 308 and the Companies Regulations, 1984.
3. The Off-Shore Banking Act, Cap. 325.
4. The Exempt Insurance Act, Cap. 308A.
5. The Barbados Foreign Sales Corporation Act, Cap. 59C.
6. The International Business Companies Act, 1991-24.
7. The Societies with Restricted Liability Act, 1995-7.
8. The International Trusts Act, 1995-14.
9. The Caribbean (Caricom Enterprises) Act, Cap. 14B.
10. The Limited Partnership Act, Cap. 312.
11. The Registration of Business Names Act, Cap. 317.
12. The Bills of Sale Act, Cap. 306.
13. The Charities Act, Cap. 243.
14. The Trustee Act, Cap. 250.
15. The Registration of Newspapers Act, Cap. 302.
16. The Insurance Act, Cap. 310.
17. The Trade Unions Act, Cap. 361.
18. The Pharmacy Act, Cap. 372D.
19. The Patents Act, Cap. 314 and the Patents Regulations, 1984.
20. The Trade Marks Act, Cap. 319 and the Trade Marks Regulations, 1984.
21. The Industrial Designs Act, Cap. 319A and the Industrial Designs Regulations, 1984.
22. The Copyright Act, 1998.
23. The Geographical Indications Act, 1998.
24. The Integrated Circuits Topography Act, 1998.
25. Protection Against Unfair Competition Act, 1998.
26. The Stamp Duty Act, Cap. 91.
27. The Property Transfer Tax Act, Cap. 84A.
28. The Public Documents (Exemption from Diplomatic or Consular legalization) Act, Cap. 122.
29. The Small Business Development Act, 1999.

ANNEX 2**Annual Activity Statistics and Key Performance Indicators for the Corporate Registry**

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
B/name	676	751	669	773	751	846	966	889	817	1265	1664	1049
Local	424	446	400	368	300	338	377	466	541	699	739	455
Non/Pr	9	9	9	10	12	8	17	23	17	31	20	3
Ext 1	41	29	24	21	17	26	48	43	66	87	118	56
FSC	50	75	74	122	123	165	258	343	385	376	310	169
IBC	170	162	205	183	216	294	333	365	414	441	372	180
D/SRL	-	-	-	-	-	-	-	-	-	-	4	4
Ex/SRL	-	-	-	-	-	-	-	-	23	22	37	8
Ex/Inse	61	31	23	23	22	29	31	33	24	29	17	2
O/Bank	1	3	5	4	3	5	10	7	8	2	5	3
Charity	20	29	10	10	18	22	80	26	31	26	37	16
Notices	-	-	-	-	-	-	-	-	-	-	-	*933
Amendments	-	-	-	-	-	-	-	-	-	-	-	*59
Amalg-	-	-	-	-	-	-	-	-	-	-	-	*2
Dissolutions	-	-	-	-	-	-	-	-	-	-	-	*32
Continuances	-	-	-	-	-	-	-	-	-	-	-	*2
Bills of Sale	-	-	-	-	-	-	4404	5680	8264	9090	10214	4594
Debentures & Charge	-	-	-	-	-	-	-	-	-	-	-	212
Share transfer	-	-	-	-	-	-	-	-	-	-	-	*65
Prospectuses	-	-	-	-	-	-	-	-	-	-	-	*3
Notarial acts & Certificates	-	-	-	-	-	-	-	-	-	-	-	*259
Apost-Illes	-	-	-	-	-	-	-	-	-	61	157	92
Certified copies	-	-	-	-	-	-	-	-	-	-	-	*940
Name Reservations	-	-	-	-	-	-	-	-	-	-	-	*481
Adjudications of S/Duty & T/Tax -	-	-	-	-	-	-	-	-	-	-	-	*3579

[Notes: All figures accurate to July 19, 1999. Statistical information marked with an * only available from April to June 1999. No information is available on post-incorporation services between years 1988-1998.]

ANNEX 3Annual Activity Statistics and Key Performance Indicators
for the Intellectual Property Office**TRADE MARKS**

	1998	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Appl ns	500	788	441	585	711	689	739	777	998	982	1041	*677
Renewals	249	445	347	250	371	174	141	480	750	692	617	*181
Reg ns	289	214	11	88	61	20	52	211	287	499	600	*260
Transfers	296	116	165	206	239	230	153	151	196	180	137	*222
Change of address	60	58	94	181	171	66	52	135	150	110	120	*127
Amendments	36	49	67	70	29	72	45	46	92	122	234	*34
Changed address for service	159	97	99	91	215	88	107	165	45	139	54	*38
Opposition notices filed	4	3	4	4	-	-	1	-	-	-	3	*6
Answers filed	2	3	3	-	-	-	1	-	-	-	2	*4
Gazette Ads prepared	-	-	-	-	-	-	-	-	-	-	-	*2500 (contract) *300

PATENTS

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Appl ns	24	38	32	26	54	36	54	39	154	68	43	*22
Renewals	81	38	33	40	70	80	90	105	95	106	132	*127

INDUSTRIAL DESIGNS

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Appl ns	1	1	-	-	4	1	1	4	6	10	11	*4

[Notes: Statistical information for 1999 marked with an * compiled to July 19, 1999.]

[End of Annex and Document]