

## SERVICE MARK FEES

The Service Mark fees is payable in two stages:-

- 1) Upon an application register:  
\$3,500.00 (plus \$1000.00 for every additional class)
- 1) Upon acceptance of the Mark for registration:  
\$1,320.00 for advertising the mark in the Jamaica Gazette (publication is required by law); and \$3,500.00 for registration of the mark, which also includes issuance of the Certificate of Registration.

For further information, please contact the  
Trade Marks & Designs Directorate  
Jamaica Intellectual Property Office (JIPO)

**36 Trafalgar Road  
PCJ Building 4th Floor  
Kingston 10**

Phone: (876)929-4874  
926-5386  
754-6350  
926-7229  
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# PROMOTING AND PROTECTING YOUR BUSINESS THROUGH A SERVICE MA<sup>®</sup>K



**PAVING THE WAY TO GROWTH  
AND DEVELOPMENT THROUGH  
THE PROTECTION OF  
INTELLECTUAL PROPERTY RIGHTS**

## PROMOTING AND PROTECTING YOUR BUSINESS THROUGH A SERVICE MARK

If you are offering a service in Banking, Insurance, Financing, Travel, Transportation, Security, Telecommunications, Hygienic and Beauty Care, Entertainment, Building Construction, Provision of food and drink, among others, then a **SERVICE MARK** applies directly to you and your business.

### WHAT IS A SERVICE MARK?

A SERVICE Mark is a type of Trade Mark which applies to services, and can be defined as a distinctive sign which identifies certain services offered by a specific person or business enterprise. It also serves to distinguish the service of one enterprise from that of its “competitors”.

## FUNCTIONS OF A SERVICE MARK

- 1) One of the functions of a Service Mark is that it plays the significant role of enabling consumers to distinguish between the different services being offered by the various service providers. Thus it enables consumers to identify or purchase a particular service, because, for instance, the standard and quality of the service which are indicated by the unique Service Mark, meet their needs.
- 2) A service Mark also functions to link or refer the service being offered to a particular individual or enterprise, by giving an indication as to the origin of the services for which the Mark is used. In this respect a Service Mark distinguishes the services based on their relationship to a particular individual or enterprise, namely that from which the services originate.
- 3) A service Mark also plays the role of referring to a particular quality or standard for which the mark is used. Thus, it enables the proprietor to guarantee that his/her services are of a particular quality or standard.
- 4) A Service Mark has the crucial function of promoting the marketing and sale of services. A Service Mark is often used to stimulate sales, that is, it is designed to appeal to the consumer to create interest and to inspire a feeling of confidence in the consumer in purchasing the services to which it relates.

# www.jipo.gov.jm

## THE BENEFITS OF A REGISTERED SERVICE MARK VS. AN “UNREGISTERED” ONE

- (a) The most critical role of a Registered Service Mark is that it provides protection for the proprietor’s right of ownership and interest in the Mark, by ensuring that the proprietor has the exclusive right to use the Mark to identify his/her services, or to authorize another to use it in return for payment, for instance, under a License Agreement.

Due to this exclusive right of use given to a registered Service Mark, a proprietor can bring an action for infringement in the local Courts against any person who without his/her permission, uses a mark identical to or similar to his/her mark as to be likely to deceive or cause confusion.

Hence under the law, a registered Service Mark protection is enforceable by the Courts of Law, which have the authority to block and counteract Service Mark infringement by imposing either civil or criminal sanctions as the case warrants.

- (b) The situation is the opposite in respect of an

Unregistered Service Mark. Even though, a unregistered Service Mark may serve to identify or distinguish a proprietor’s service on the market, it does not guarantee a proprietor’s exclusive right to the use of the Mark, and therefore anyone can capture or infringe the mark and use it on identical or similar services for his/her own profit or gain.

It is true that a proprietor of an unregistered Service Mark has the common law remedy of bringing a “Passing off” action against someone who has infringed his/her mark. However, in this instance strong evidence has to be brought by the proprietor to prove true ownership, and the burden of proof is thus greater on the part of the unregistered proprietor. This action is therefore often a lengthy and costly one.

One the other hand, in the case of a registered proprietor, he/she simply needs to show the Certificate of Registration and the Certificate of Renewal (of Registration) where applicable, to prove the true ownership and exclusive right of use in the Service Mark.

- (2) Further, a registered Service Mark plays the important role of enabling the proprietor to guarantee the quality and standard of services for which the mark is used. Due to his/her exclusive right of use of the mark, he/she can ensure that the mark is only used for services for which he/she has given consent under a License Agreement. He/she is still able to ensure that the services to which the mark relate, meet his/her standards of quality. In so doing, the proprietor protects his/her reputation and goodwill on the market.
- (3) A registered Service Mark under the law (unlike the case of an unregistered Service Mark), is protected for periods of ten (10) years thereafter. Thus, registration of a Service Mark offers protection indefinitely, once the Service Mark remains active and is continuously renewed.

## HOW IS A SERVICE MARK REGISTERED

- 1) Firstly, an application to register a Service Mark must be filed at the Trade Marks & Designs & Geographical indications Directorate, of the Jamaica Intellectual Property Office (JIPO), on a specific form called Form TM 1.
- 2) The application must contain a clear reproduction of the mark being filed for registration, including any colours, forms, or three-dimensional features.
- 3) The application must also contain a list of the services to which the Mark will apply, which are based on an international classification system known as the “Nice Classification”. Under this system goods are classified under 34 classes, and services are classified under eleven (11) classes, each class having a different range of goods and services from which the proprietor must select.
- 4) The Mark must fulfill all the requirements under the Trade Marks Act, 1999, and Trade Marks Rules, 2001, in order for it to be protected as a Service Mark.
- 5) It is recommended that an applicant conduct a preliminary search and examination as JIPO, to ensure that the mark for the services for which he/she is applying, is not the same as or similar to a registered mark for the same or similar services; which would prevent the applicant’s mark from being registered.