

# Kluwer Trademark Blog

## The vibrant IP practice in Mauritius

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End of January 2022 the Industrial Property Act 2019 came into force in Mauritius. The new IP legislation modernises the law, which now also provides for some international agreements. Kluwer IP Law interviewed Marius Schneider, who heads [IPvocate Africa](#), and Nora Ho Tu Nam, a Senior Associate at the same boutique law firm: “We foresee further potential for IP Holdings, especially for companies at the crossroads between Asia and Africa.”

### Could you tell a little about IP in general in Mauritius?

Mauritius is a small but beautiful island in the Indian Ocean between Africa and Asia, famous for its pristine beaches and its tropical climate. Albeit its small size, Mauritius is a high-income country with a consumer base of approximately 1.3 million inhabitants. Approximately the same number of tourists visits the island every year.



Numerous foreign companies register their trade marks and IP rights in Mauritius. There is further a recognition of the importance of IP by local entrepreneurs who increasingly register their brands and domain names as soon as they start their business.

Mauritius is a great choice to establish an IP holding company. It is a stable democracy with a friendly tax regime. There is flat corporate tax, no capital gains tax and no foreign exchange controls, meaning that foreign companies enjoy free repatriation of profits. Mauritius also eliminated double taxation with several countries in Europe, Africa and Asia. Multiple bilateral trade agreements with African countries have been signed which allow foreign companies to have

preferential access to key African markets and to protect their investments. There is finally a well-educated workforce, with Mauritians fluent in both English and French.

Although many tourists come to Mauritius, one cannot qualify it as mass tourism: most tourists stay in four and five-star hotels and spend their money in fine boutiques. Mauritius promotes tax-free shopping with VAT refund at the airport. This explains why several well-known brands have boutiques in Mauritius

**Recently there have been some important changes in the law. What would you say are the most noticeable changes?**

The Industrial Property Act came into force in Mauritius on 31 January 2022. It is the aim of the IP Act to reinforce the protection granted to intellectual property rights

Among the most noticeable changes is the possibility of registering geographical indications, both foreign and local, in Mauritius. Colours, the shape of goods or parts of the goods as well as the packaging or other conditioning of goods are now officially registerable as trade marks.

A trade mark application may now be divided into two or more applications. This can be useful to avoid refusals or oppositions to the entirety of a trade mark application.

A trade mark may be invalidated partially or wholly, while previously a trade mark could only be invalidated wholly.

The Director of the IP Office may in case of honest concurrent use or other circumstances, allow the registration of a mark by more than one owner.

Industrial designs are renewed every five years and may now last up to 20 years from the filing date, as opposed to 15 years previously.

The IP Act maintains the – albeit controversial – rule on national exhaustion, under which right-holders can object to the importation and sale of products bearing a trade mark without the consent of the right holder.

**What are the IP challenges in Mauritius?**

Although Mauritius has adopted a new law providing for the Patent Cooperation Treaty, the Madrid Protocol on Trade Marks and The Hague Agreement on Industrial Designs, Mauritius has not yet acceded to these international agreements. In practice, international registration is not yet possible.

As there is no publicly available trade mark database, a search must still be undertaken in person at the IP Office. Interested parties cannot print out the results: they either note the results down on paper or take a photo on their phone. In fact, the IP Office is still very much paper based and an application for any IP right must be done through submission of paper forms and manual payment at a cashier. This is regrettable as Mauritius has the capacity to digitalise the IP Office. There are trained IT professionals, a stable internet connection and a well-developed Information and Communication Technology sector. This also fits into the government ambition to accelerate public sector digitalisation efforts.

Probably due to the geographical proximity with Asia and Africa, there is a lot of counterfeiting and piracy in Mauritius. Counterfeit products come either in the form of flashy designer products sold to tourists or as low-quality knockoffs destined to the local market. Some IP right holders struggle to effectively enforce their rights against counterfeiters and pirates, as court procedures are lengthy, burdensome, and procedural. Customs is mandated and willing to step in in the fight against the counterfeiting plague: they are competent to enforce IP rights both at the border and on the local market.

### **Are there any recent trends in Mauritius?**

Mauritius is expected to implement the Patent Cooperation Treaty, the Madrid Protocol on Trade Marks and The Hague Agreement on Industrial Designs in the next few months. This will certainly bring some changes for IP right-holders and practitioners.

### **What is the future for IP in Mauritius?**

Despite the relatively small size of the island, Mauritius has a vibrant IP practice.

We foresee further potential for IP Holdings, especially for companies at the crossroads between Asia and Africa.

Our office is specialised in protecting, managing and enforcing IP rights all over Africa from Mauritius and we see this as a very successful business model. Africa is an emerging continent and there is a great need for reliable and trustworthy IP advice. With our team of bilingual lawyers (English and French, the main languages of Africa) versed in civil law and common law (the predominant legal systems on the continent) we are in a good position to provide expert advice. Mauritius, as a transparent jurisdiction is an ideal place to conduct our business.

### **You are author of the Mauritius chapter for the Wolters Kluwer publication ‘Manual IP (also known as the Brown Book)’. Could you give an insight in what it is like to be involved in this?**

It is a pleasure and an honour to contribute to the Brown Book. We thoroughly enjoyed authoring the Mauritian chapter. Authoring a chapter is a good opportunity to dissect a law and familiarize yourselves with new changes. In fact, we enjoy the process so much that we are the authors not only for Mauritius, but also for the chapters on Uganda and Djibouti.

We are also intensive and convinced users of the Brown Book. It often allows us to get a quick first answer.

### **More on the authors**

Marius Schneider heads IPvocate Africa, a boutique law firm specialized in protecting, managing, and enforcing IP rights in Africa. He has more than 20 years' experience in the field of intellectual property. He is the co-author of 'Enforcement of Intellectual Property Rights in Africa' published by Oxford University Press. Nora Ho Tu Nam is a Senior Associate at IPvocate Africa. She focuses on anti-counterfeiting matters in Africa.

Established in 2012, IPvocate has over the years successfully assisted clients, including multinationals, startups, and law firms in their dealings in Africa. Our high-level expertise, our

understanding of Africa and our keen sense of client service ensure that every client finds the most time and cost-effective solution.

*The Manual IP explains the procedures and laws involved in filing applications for Patents, Trademarks, Utility Models and Designs in 238 jurisdictions. Want to learn more click [here](#)*

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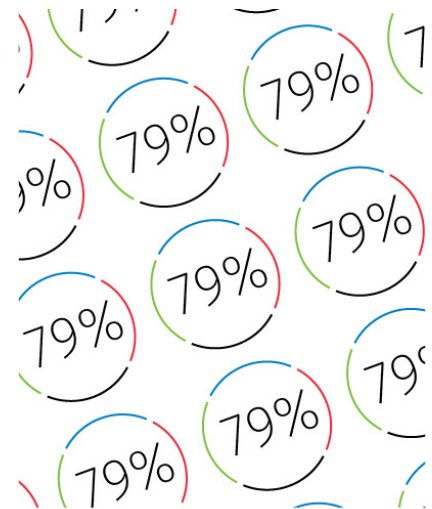
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