



19 May
2020

How the covid-19 pandemic has affected trademark practice in the Caribbean

International - [Caribbean IP](#)

- **Many Caribbean IPOs are offering alternative practices and procedures during any suspension of normal operations due to covid-19**
- **Mark owners and practitioners should consider the logistical challenges presented in addition to the legal ones**
- **The covid-19 crisis may lead to long-term improvements**

The covid-19 pandemic has caused significant disruptions to trademark processes in the Caribbean region. Some challenges seen elsewhere are amplified in the Caribbean because of logistical and technological concerns. Nonetheless, many Caribbean Intellectual Property Offices (IPOs) are working to alleviate those challenges and offer alternative practices and procedures during any suspension of normal operations.

This article presents the general, current status of trademark practice at Caribbean IPOs. It is based on the most up-to-date information available at time of writing (18 May 2020). Mark owners should maintain regular communication with their local representatives to avoid any adverse impacts and to verify the current status of any altered practices.

Mark owners and practitioners should consider the logistical challenges presented in addition to the legal ones. Discussion of each jurisdiction is beyond the scope of this article, but some generalities can be useful.

During normal operations, many Caribbean jurisdictions require original, hand-signed documents. Even if executed, sending documents to the region may prove difficult at present. Mail and courier services to the region have been impacted. In response, some Caribbean IPOs have temporarily suspended some formalities. Facsimile documents may be accepted temporarily, with the originals to be filed when normal procedures resume.

Curfews are also having an impact on enforcement and adversarial proceedings. Collecting evidence of infringement or use may prove difficult or impossible during a curfew. Curfews may seem to present an excusable non-use fact pattern, but their limited duration may not aid mark owners' arguments.

Many Caribbean IPOs require in-person searching, which will be impacted by curfews and office closures. Some IPOs have allowed staff searching with emailed results to local counsel. In other jurisdictions, searching remains unavailable.

Some Caribbean jurisdictions, usually with relatively small populations, effectively controlled the pandemic with minimal disruption. Others have ended restrictions and resumed normal or close-to-normal practice. These jurisdictions are the exception, not the rule. A few of the jurisdictions with physically open IPOs include Anguilla, Belize, Curacao, Dominica, St Lucia and Suriname. Even in these jurisdictions, hours of operations may be limited and filing receipts and similar confirmations may be delayed.

Many Caribbean IPOs have responded to covid-19 by either closing or partially closing offices, especially to public access, and making online filings available. This is typically accompanied by staff working remotely and some services being delayed or temporarily unavailable. Some deadlines may be extended in these circumstances, but many deadlines remain in place given that the IPOs are operational.

Examples of jurisdictions operating on a limited or remote basis include Barbados, Bermuda, Cayman Islands, Dominican Republic, Grenada, Jamaica, and Trinidad and Tobago. Meanwhile, the Caribbean Netherlands, Puerto Rico and Sint Maarten already used electronic filing, which put them at a great advantage in responding to the crisis.

A few IPOs have completely shut their doors without electronic alternatives. While some shuttered IPOs have transitioned to other systems, Guyana and Montserrat's IPOs remain fully closed. In Guyana, time limits have been tolled. Specifics related to time limits after reopening are not yet available. In Montserrat, the IPO was working on an online-filing system but has not made it available to practitioners as yet.

In confronting the challenges created by covid-19, Caribbean IPOs may realise the benefits of alternative trademark procedures. This temporary crisis may lead to long-term improvements in the vein of electronic filing, acceptance of facsimile or electronic signatures, and online searching. In building more robust solutions to respond to times of crisis, IPOs may have the opportunity to develop systems that prove more efficient and cost-effective, as well as accessible at all times. Such advancements would prove useful not only for unforeseen emergencies like covid-19, but also for hurricanes, a perennial threat to the region.

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