

# Use of Flags and Emblems with Your Brand



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# Overview



- Definition of Intellectual Property (IP)
- Types of IP
- International Framework for the protection of State emblems and official signs
- National Framework for the protection of State emblems and official signs
- Standing Committee on the Law of Trade Marks, Industrial Designs and Geographical Indications (World Intellectual Property Organization)
- Conclusion

# What is intellectual property?



Photo by WIPO

“Expressed creations of the mind”

# Intellectual Property

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graph TD; A[Intellectual Property] --> B[Copyright and Neighbouring Rights]; A --> C[Industrial Property];
```

Copyright and  
Neighbouring  
Rights

Industrial  
Property

# Copyright

Property right which subsists in original literary and artistic works.



Photo by Kavish Seetahal



Photo by Kavish Seetahal

# Trade Marks

- “...any sign capable of being represented graphically and which is capable of distinguishing goods or services...”

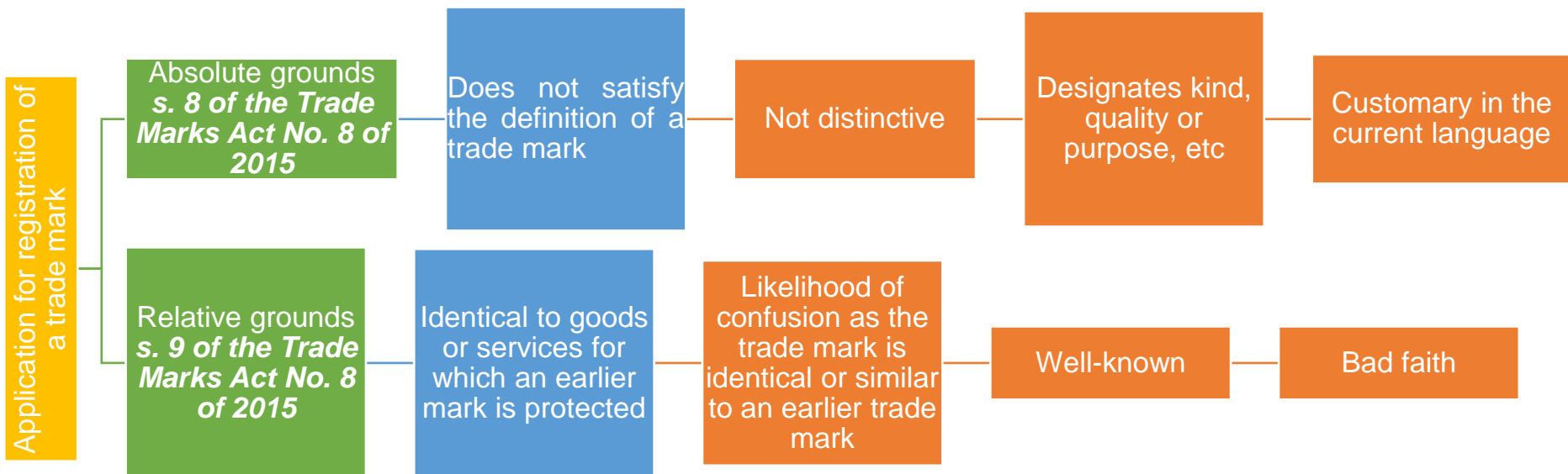
**S. 3 of the Trade Marks Act No. 8 of 2015**

***This includes non-traditional trade marks such as sound, scent, touch etc.***



The MGM lion's roar is a trademarked **sound**

# Trade Marks



Cross section of the grounds of refusal of registration adapted from the Trade Marks Act No. 8 of 2015 available online at <http://www.ttparliament.org/legislations/a2015-08.pdf>

# International Framework for the protection of State emblems and official signs Paris Convention



The [Paris Convention](#) for the Protection of Industrial Property 1883 which Trinidad and Tobago became a member on August 1, 1964 protects state emblems and official signs.

Article 6*ter* of the [Paris Convention](#) specifically protects armorial bearings, flags and other State emblems of the States party to that convention, as well as official signs and hallmarks.

Article 2 of the [TRIPS Agreement](#) specifies article 6*ter*.



# Trade Marks Act No. 8 of 2015

## National emblems, etc., of Convention countries: Article 6ter of Paris Convention and TRIPS Agreement

Section 60. (1) A trade mark which consists of, or contains, the flag of a Convention country **shall not be registered without the authorisation of the competent authorities** of that country, unless it appears to the Controller that use of the flag in the manner proposed is permitted without such authorisation.

# Trade Mark Regulations 2020

## Registration of mark consisting of armorial bearings, etc.

- 14. (1) Where a representation of the name, initials, abbreviation of the name, armorial bearings, state emblems, insignia, official signs, orders of chivalry, decorations, **flags** or devices of any state, settlement, city, borough, town, place, society, body corporate, government body, statutory board, institution or person appears on a trade mark which is the subject of an application for registration, the Controller, before proceeding to register the mark, **may require the applicant to furnish the Controller with the consent** to the registration and use of the matter in question of such official or other person as appears to the Controller to be entitled to give consent.
- (2) The Controller shall refuse to register the mark if no such consent is furnished within the time specified by the Controller.

# National Emblems of Trinidad And Tobago (Regulation) Act Chapter 19:04

- Section 4 establishes the “*Trinidad and Tobago National Emblems Committee consisting of a Chairman and such number of members as the Minister may from time to time appoint in writing under his hand.*”

# National Guidelines on the Usage of National Emblems

- Launched by the Ministry of National Diversity and Social Integration in November 2014, aims to preserve and ensure standardisation in the presentation and usage of our National Emblems.
- The publication is based on the [National Emblems of Trinidad and Tobago \(Regulation\) Act: Chapter 19:04](#) published in 1967, and the recommendations of the 1962 Independence Committee.

<https://natt.gov.tt/node/172>

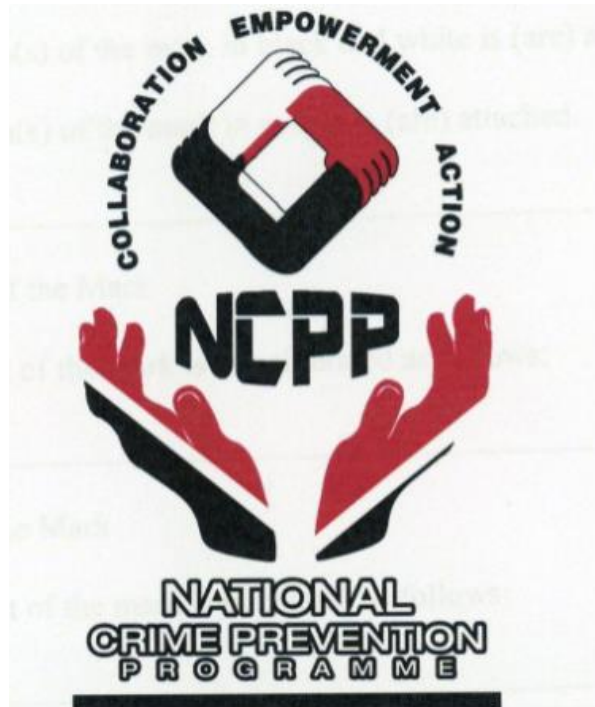


# National Guidelines on the Usage of National Emblems

## PROHIBITED USES OF THE NATIONAL FLAG

- The Flag should not have placed on it or attached to it any mark, insignia, letter, work, figure, design, picture or drawing. It should not be used as a commercial trade mark. Advertising signs should not be fastened to a staff or halyard from which the National Flag is flown.

# Are these Marks Registrable?



<https://bit.ly/3m8y3Gp>

<https://www.wipo.int/treaties/en/ip/nairobi/>

# Standing Committee on the Law of Trade Marks, Industrial Designs and Geographical Indications

## “Protection of Country Names”

Revised Proposal by the Delegation of Jamaica for a Joint Recommendation Concerning Provisions on the Protection of Country Names (document SCT/43/9)

“The Group reiterated its commitment to continue discussing the protection of country names...”

# Trade Mark with Country Name







Intellectual Property Office  
Inspiring Innovation Protecting Creations



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