



**JAMPRO**  
TRADE & INVESTMENT JAMAICA

# The Madrid Protocol:

## Global IP Protections for Jamaican Animation Practitioners

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# About the Film Commission

- **OUR PURPOSE:** Build global relationships and realize business opportunities
- **OUR VISION:** To be a world class business enabler and promotions agency, making Jamaica the premier destination to do business in the film and animation industries.
- **OUR MISSION:** Drive Jamaica's economic development through growth in investment and export within these sectors.

The Jamaica Film Commission is housed within the Film, Animation and Music department at JAMPRO, an agency of the Ministry of Industry, Commerce, Agriculture and Fisheries.



# The Function of FAM

## Promotion of Export & Investment Opportunities

- Facilitate business opportunities between qualified international and local clients
- Progress investment and export opportunities that result in employment of Jamaicans, capital expenditure, and production expenditure

## Sector Development Initiatives

- Advance sector development through signature programs and ecosystem building
- Collaborate with the respective industry associations, partners, and stakeholders

## Promoting Jamaica as a Film Business Location

- Represent Jamaica at international festivals/markets to promote the country as a business location for film
- Promote databases of locations, content, talent, and resources / services

## Film Production Advisory and Facilitation

- Process film registration for all projects being filmed in Jamaica
- Liaise between government agencies, private sector, and production companies
- Facilitate standard and specialized permits eg: bond waivers, work permit, special items, public areas, and other specialized requests

## Policy and Advocacy

- Advocate for incentives, policies, research, and funding for portfolio sectors
- Facilitate the Productive Inputs Relief (PIR) under the Fiscal Incentives Act (FIA) for local entities to access eligible incentives



# Animation Industry Snapshot

- The animation industry in Jamaica has grown significantly over the last 3 years, primarily as a result of the World Bank financed Youth Employment in the Digital Animation Industries (YEDAI) Program.
- This growth is largely developmental but also commercial, as studios have begun to establish a niche in IP development and animation servicing in the international market through the Business of Sustainability for Studios (BOSS) Program.
- Animation continues to demonstrate a key potential for economic transformation and mobility, especially due to the digital pipeline and remote work nature of the industry
- A key initiative to advance this potential is the CDB Creative Industries Investment Fund (CIIF) US\$100K Caribbean Cooperation Business Model for the Animation Industry project – a US\$100,000 grant awarded to JAMPRO (2019) to develop a tool to optimize regional collaboration in the development of Caribbean IP and export of animation services.
- Jamaica's advances with the Madrid Protocol for the international protection of IP rights, is also a necessary development and tool for the global commercialization of creative industries services.



# The Madrid Protocol

- ❑ The Madrid Protocol is an international treaty designed to simplify the international **trademark registration process**. Using this process, registrants can complete a single application, in their home language, that can then be applied to over 90 member countries.

The Madrid Protocol is a simplified application process.

The Madrid Protocol is cost effective.

This is a registration process – it does not guarantee approval.

Your international applications are based on the basic application you filed with your local office (JIPO) - changes to the local filing affects your global protections.

Not all countries are members of the Madrid Protocol.

MM2(E), page 6

## 11 DESIGNATIONS

(Information on the procedures in the national or regional Offices of the members of the Madrid System may be found at the following website: [www.wipo.int/madrid/en/members/ipoffices\\_info.html](http://www.wipo.int/madrid/en/members/ipoffices_info.html). Additional information may be found in the information notices available at: [www.wipo.int/madrid/en/notices/](http://www.wipo.int/madrid/en/notices/).)

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<input type="checkbox"/> AL Albania	<input type="checkbox"/> EM European Union <sup>1</sup>	<input type="checkbox"/> LR Liberia	<input type="checkbox"/> RW Rwanda
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<input type="checkbox"/> CW Curacao <sup>9</sup>	<input type="checkbox"/> KG Kyrgyzstan	<input type="checkbox"/> PH Philippines	<input type="checkbox"/> VN Viet Nam
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Others: .....



# Trademarks

Trademark registration will confer an **exclusive right to the use of the registered trademark**. The trademark can be exclusively used by its owner or **licensed to another party** for use in return for payment and provides **legal certainty** in the event of litigation.

## Functions of Trademarks

Signifies that all products and services that carry the mark come from one source

Serves as the primary advertising and marketing vehicle for selling the products and services that bear the trademark

Signifies that all products and services that carry the trademark have a standard quality level

Permits the trademark owner to use a mark to distinguish his/her products from those of another party.

Characters as trademarks:





Trademarks that are part of the IP:

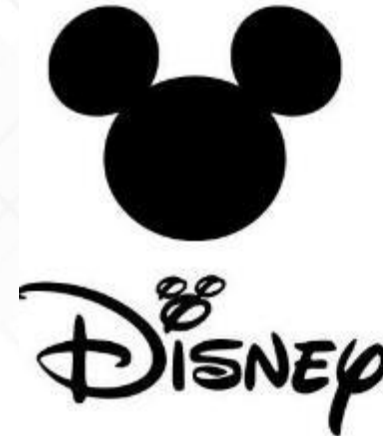




# Trademark Infringement

- Trademark law looks at “confusing similarity” or “likelihood of confusion.” to determine infringement on your mark.
- “Strength” means how unique or unusual the mark is in connection with the goods or services.
  - Including the relative sophistication of the parties’ customers,
  - whether the parties’ goods and services are marketed to different consumers through different channels of trade,
  - whether there has been any evidence of actual confusion, and
  - whether the defendant actually copied the plaintiff’s trademark with an intent to trade on the plaintiff’s goodwill

DEFENDANTS’ INFRINGING LOGO	LUCASFILM’S TRADEMARK JEDI ORDER LOGO
	



# Trademarks – Commercial Exploitation

## Assignment and Licensing

- An assignment of a trademark involves an outright sale under which there is a one-off transfer of the personal property in the trademark to the new owner
- A license of a trademark involves granting of a limited right to use the mark (duration of use and geographical restrictions) by the trademark proprietor to a particular person or persons.
- Licensing is based primarily upon the legal protection given under trademarks

## Merchandising

- Character or personality merchandising refers to the business practice of marketing goods and services by the association with a real or fictitious character or personality.
- The name, photograph or drawing of the character is applied onto everyday items such as T-shirts, water bottles, lunch boxes, pencil cases, pendants, key-chains, cups and saucers, bags etc to enhance their appeal to consumers.
- it enables the owners, whether IP is enduring or short-lived in popularity, to generate licensing revenues from the use of the characters



# Copyright Protection

Copyrights and trademarks protect distinct creations. Generally, copyrights protect creative or intellectual works, and trademarks apply to commercial names, phrases, logos and graphical characters.

Copyrights primarily protect the rights of people who create literary, dramatic, musical, artistic, and certain other intellectual works

For cartoon characters, courts consider not only the visual resemblance but also narrative aspects of a character

Licensing operates similarly to trademarks and refers to the distinct creation licensed.

The copyright holder of the work retains exclusive rights to print, display, distribute and perform the work.

Jamaicans qualify for international Copyright protection in more than 160 countries through the Berne Convention.

Infringement is evaluated on the basis of “substantial similarity”.

The primary objective for the creator and/or owner of a particular character should be that of providing the type of legal protection that cloaks the character in a protective environment that combines the benefits of copyright, trademark and unfair competition law.

# Why Trademark my Animation IP Internationally?

- The intangible nature of graphic characters.
- The potential for commercial exploitation: licensing and merchandising.
- Legal support in the event of infringement.
- Encourages Innovation
- Encourages trade and foreign direct investment
- Reduces the burden of cost for investment in protection rather than invention



# What now?

Develop your animation stories and characters with IP protection in mind.

Protect your trademark and copyright locally.

Determine the countries where you need to register your trademark.

File your international trademark application as soon as possible, particularly if you intend to do business abroad in the short term.

Seek legal advice!



# THANK YOU!

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