

APPENDIX 1 -

**COMPARATIVE ANALYSIS OF TRADE MARK LAWS OF ENGLISH-
SPEAKING CARICOM COUNTRIES**

Topics	Antigua and Barbuda Trade Marks Act No. 18 of 2003 Trade Marks Regulations 2006	Bahamas Trade Marks Act Ch. 322 as amended up to Act No. 5 of 1987 Trade Marks Rules 1948 as amended up to Act No. 5 of 1984	Dominica Marks, Collective Marks and Trade Names Act No. 12 of 1999 Marks, Collective Marks and Trade Names Regulations, 2009	Grenada Trade Marks Act No. 1 of 2012 Trade Marks Regulations No. 18 of 2012	St. Kitts and Nevis Marks, Collective Marks and Trade Names Act Cap. 18.22 and Trade Marks Rules
Definition of a trade mark	2 (trade mark definition relates to goods or services)	2 (trade mark definition relates to goods only, not services)	2 (trade mark definition relates to goods or services)	2 (trade mark definition relates to goods or services)	2 (trade mark definition relates to goods or services)
Types of registrable trade marks	2 (trade, service, collective marks) 8 (collective marks) TMR 25 (collective marks)	2 (trade mark) 24 (series of trade marks) TMR 28 & 47 37 (certification trade mark) TMR 121 - 124	2 (trade marks, collective marks) 14 (collective marks) TMR 33 (series of marks) TMR 67 (collective marks)	2 (trade mark, collective mark, certification mark) 18 (collective mark) TMR 22 (collective marks)	2 (trade mark, service mark, collective mark) 14-16 (collective trade marks)

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Rights in a registered trade mark	3	38-39	3 9	5 14	3 9
Application for registration of a trade mark	4 TMR 9 - 11	10 TMR 6-10, 17 & 20 - 29	5 TMR 12 & 14	7 TMR 9 - 11	5 TMR 6 - 11
Classification of goods and services	4(1) (International Classification) TMR 8	6 (trade mark must be registered in respect of particular goods or classes of goods) TMR 5 (Classification of Goods listed in the Second Schedule to the Rules) TMR 25 (applications for registration of the same mark in different classes shall be treated as separate and distinct applications)	5(1)(c) (International Classification) TMR 5	7(2)(c) (International Classification) TMR 8	5(1)(c) (International Classification) TMR 2 – Goods are classified in accordance with Schedule 2 to the Rules TMR 3 – the Registrar makes the final determination in relation to classification issues
Joint proprietors		39			TMR 22
Date of filing	TMR 15			TMR 15	

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Priority claim	4(2)-(3) TMR 12 – 13 (certified copy of earlier application to be furnished within two months of the request by the Registrar)	TMR 18	5(3) TMR 13	8 TMR 12	5(3)
Criteria for registration	5	7	6	10	6
Unregistrable marks	3 (2)	9 17 TMR 11 – 16	4 TMR 11	6	4

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Duration of rights	6(5) (10 years renewable)	26 (14 years and renewable)	10 (10 years renewable)	15 (10 years renewable)	10 (10 years renewable)
Disclaimer or limitation	TMR 16 - 17	10(2) 13 (disclaimers) TMR 31 – 33 & 35		TMR 16 – 17	
Associated trade marks		22 25			
Deferment of acceptance					
Series of Trade Marks		24			
Publication	5(3) 19(4) TMR 18 TMR 39	11 TMR 44 - 48	6(3) 8(1)(b) TMR 19	13 TMR 18 TMR 20 (reference to the registration of a trade mark must be published in the Gazette) TMR 35	6(3) TMR 13, 27

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Opposition	5(4)-(6) TMR 19 – 22 (TMR 19 - notice of opposition to be filed within three months of the publication of the mark)	12 TMR 49 - 58	7 TMR 20-28 TMR 20 (Notice of Opposition to be filed within two months of the publication of the trade mark) TMR 28 (a person who intends to file a notice of opposition, may request that the Registrar does not issue the Certificate of Registration, before the two month period to file the Notice of Opposition has expired and the Registrar shall not issue the Notice of Opposition for a period of three months from the date of the expiry of the term for the filing of the Notice of Opposition.	11 TMR 19 (Notice of Opposition to be filed within one month of the date of the publication of the trade mark)	7 TMR 14 TMR 26 (opposition may be filed to alteration of the Register and proceedings shall be the same as in the case of a notice of opposition to the original registration of a trade mark)

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Infringement	23-24	42-43	28	26-28 31-32	27
Assignment and transmission of marks	17 TMR 30	20 25 31 38 58 TMR 73 - 78	20 TMR 42-46	21 TMR 26	19 TMR 18 - 21
Licensees	9 TMR 30	25 36 (registered user) TMR 114-120	13 16 (collective marks) TMR 50-53	19 21(1)(b) TMR 26	13 16 (registration of a collective mark or an application for the registration may not be the subject of a licence contract)
Registrable transactions			TMR 54		

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Madrid Protocol	11-15				
Use of trade marks on the Internet					

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Removal of mark from the Register (on the ground of non-use)	26(4) (on the ground that up to one month prior to filing the request the mark had, after its registration, not been used by the registered owner or a licensee during a continuous period of three years or longer but a mark shall not be removed if it is shown that special circumstances prevented the use of the mark and that there was no intention not to use or to abandon the mark in respect of those goods or services) TMR 26(3) – removal of a mark from the Register on the grounds of non-use shall be published.	34 (Removal on grounds of lack of bona fide intention to use the mark and no bona fide user of the mark for five years prior to date of removal application unless the lack of use is due to special circumstances in the trade)	12 (up to one month prior to filing the request that the mark had not been used by the registered owner or a licensee for a continuous period of three years or longer)	17 (up to one month prior to filing the request the trademark has after its registration not been used for a continuous period of 3 years or longer except in the case of special circumstances and that there was no intention not to use or to abandon the same in respect of those goods or services) TMR 23(3) – removal on the grounds of non-use to be published by the Registrar	12 (up to one month prior to filing the request the trademark has after its registration not been used for continuous period of 3 years or longer except if special circumstances existed which prevented the use of the mark and there was no intention not to use the mark or to abandon it) TMR 25 (trade mark may be removed from the Register after the expiration of 5 years from the date of its registration if the registered proprietor was not engaged in any business concerning the goods).

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Offences	23	62-68	29	27 34-35 38-39	28
Well-known trade marks	3(2)(iv)	35 TMR 110-113	4(e)	6(f)	4(e)
Trade Marks Register	19	3 & 5 (3 - There shall be kept at the Registry of Records for the purposes of this Act a book called the Register of Trade Marks...) TMR 61 - 63	23 TMR 32	4	22
Customs provisions	24			33	
Renewal	6(6) TMR 24	27 TMR 65 - 72	10 (10 years renewable) TMR 35-37 & 41	15 TMR 21	10 (10 years renewable)
Renunciation					
Invalidation	7 TMR 26		11 15 (invalidation of collective marks)	16 TMR 23	11 15 (invalidation of collective mark)
Right to register trade mark registered in England		61			

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Cooling-off period					
Registration & Certificate of Registration	5(8) TMR 23	15 TMR 64	8	13 TMR 20	8
Appeals	22	10(4)-(5) 31 53 TMR 106	TMR 65	25	
Costs		48 TMR 59 (security for costs)	TMR 29-30		
Extensions of time	20(2)		25 TMR 63	23(2)	24
Evidence before Registrar / Director / Controller	TMR 37 – 38	49 (notarial declaration) TMR 86, 90 & 96		TMR 33-34	TMR 32-33
Changes in Register / Rectification / Correction of the Register / Correction of errors	20(1) TMR 34	30 (correction) 33 (rectification) 47	24 TMR 55	23(1)	23

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Powers and duties of the Registrar / Director / Controller			22		21
Amendment of application	20(1) TMR 29 (change of name, address or address for service)	TMR 97		TMR 25	
Alteration of registered trade mark		32 (applic. may be made for alteration in any manner not substantially affecting the identity of the trade mark) TMR 79 (change of address)			TMR 24 (alteration of address) TMR 26 (notice of opposition may be filed to alteration of the Register and the proceedings are the same as in the case of the Notice of Opposition to the original registration of the mark)
Revocation of acceptance					

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Issuing Directions					
Defensive trade marks		35 TMR 110 - 113			
Statutory Declarations	TMR 38	90		TMR 34	TMR32