

# **INTELLECTUAL PROPERTY IN LATIN AMERICA AND THE CARIBBEAN: IMPACT ON PRODUCTIVE DEVELOPMENT, INNOVATION AND PROGRESS**

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# JAMAICA INTELLECTUAL PROPERTY OFFICE

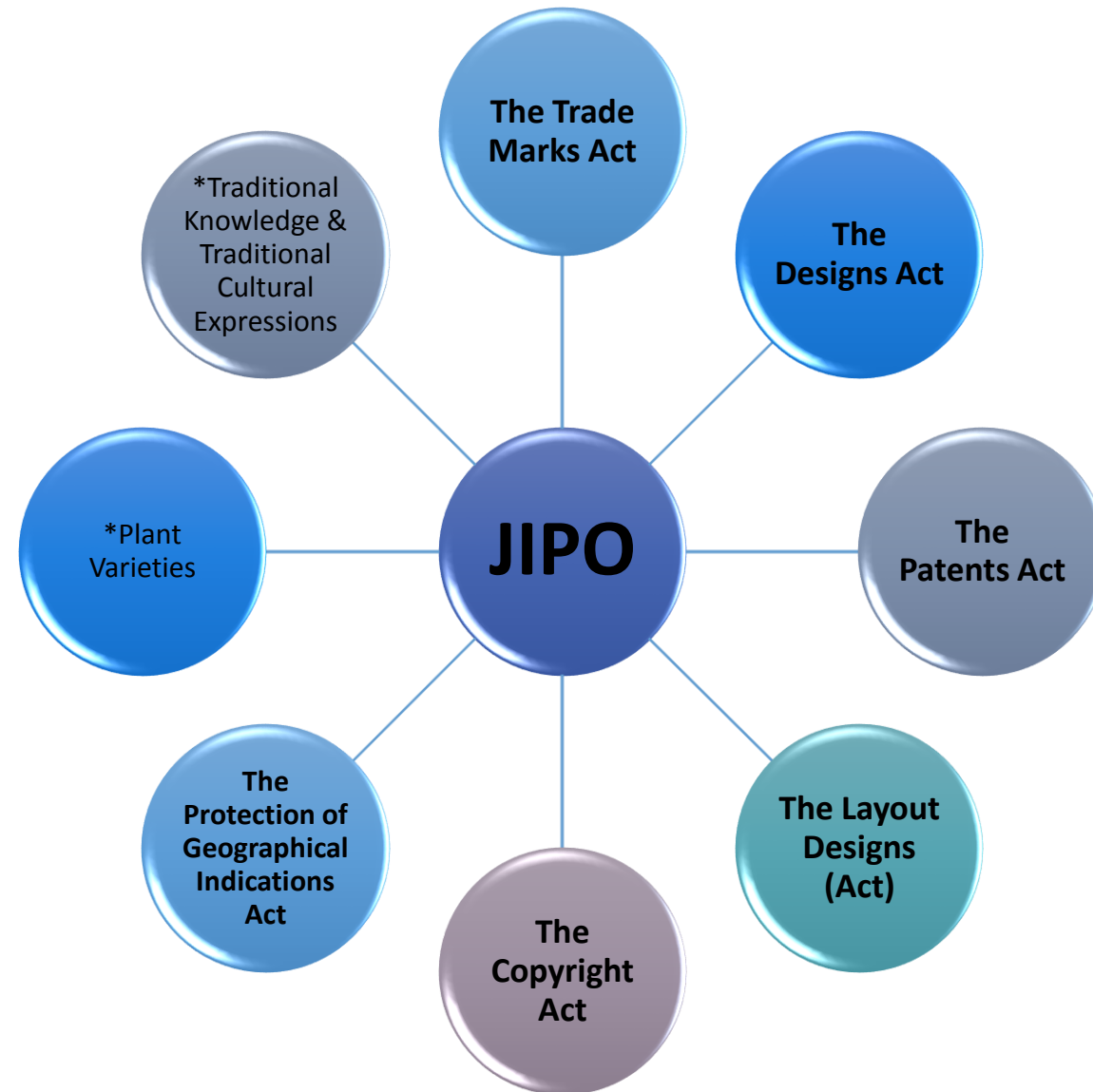
- Statutory Body, established in 2001
- Government agency responsible for administering Intellectual Property laws in Jamaica
- JIPO is an agency of the Ministry of Industry, Commerce, Agriculture and Fisheries.
- Public Education, including promotion of IP in business development, the Creative Industries, MSMEs, & Educational Institutions
- IP Registration –Trademarks, Designs, Patents, GIs, ©
- Policy development and updating laws
- Liaising with interest groups



# JAMAICA INTELLECTUAL PROPERTY OFFICE

- The services offered by and activities carried out by JIPO are geared towards enhancing the capacity of individual creators and innovators, micro, small and medium-sized enterprises (MSME's), corporations and institutions, to create wealth through the acquisition and maintenance of Intellectual Property Rights (IPR's).

# JIPO: ADMINISTRATION OF IP LAWS





## **IP LEGAL & REGULATORY FRAMEWORK**

- **The Copyright (Amendment) Act, 2015**
- **Trade Marks (Amendment) Act, 2013**
- **The Trade Marks Act, 1999**
- **The Trade Marks (Amendment) Rules, 2011**
- **The Trade Marks Rules, 2001**
- **The Protection of Geographical Indications Act, 2004**
- **The Protection of Geographical Indications Regulations, 2009**
- **The Jamaican Intellectual Property Office Act , 2002**
- **The Layout-Designs (Topographies) Act, 1999**
- **The Designs Act, 1976**
- **The Designs Rules , 2004**
- **The Patents (Amendment) Act, 1975**

# TRADE MARKS

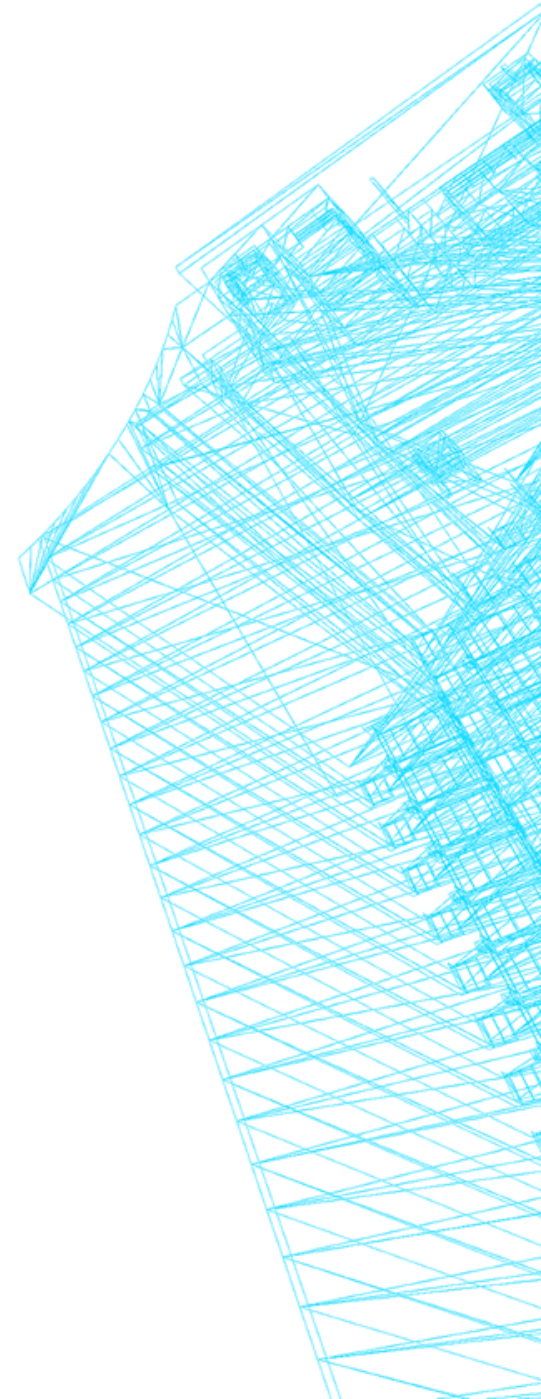
- “Any sign that is capable of being graphically represented and capable of distinguishing the good or services of one undertaking from those of another undertaking” – The Trade Marks Act 1999
- **Trade Mark Registration Process:**
  - Search, examination, approval                      3 – 5 months
  - Publication\*    1 month
  - Opposition period\*    2 months
  - Registration    1-2 months
- Approximately 10 – 12 months for completion
- The term of protection is 10 years, renewable indefinitely for equal periods.

# SELECTING & REGISTERING TRADEMARKS LOCALLY

An application to register a Trade Mark must be filed at JIPO, via form 'TM1'.

- The application must contain:
  1. a clear representation of the Mark  
including any colours, forms, or three-dimensional features
  2. acceptable and specific descriptions of the goods and/or services to which the Mark will apply  
we classify goods and services based on the Nice Classification of goods and services
  3. Name, address and telephone number of applicant

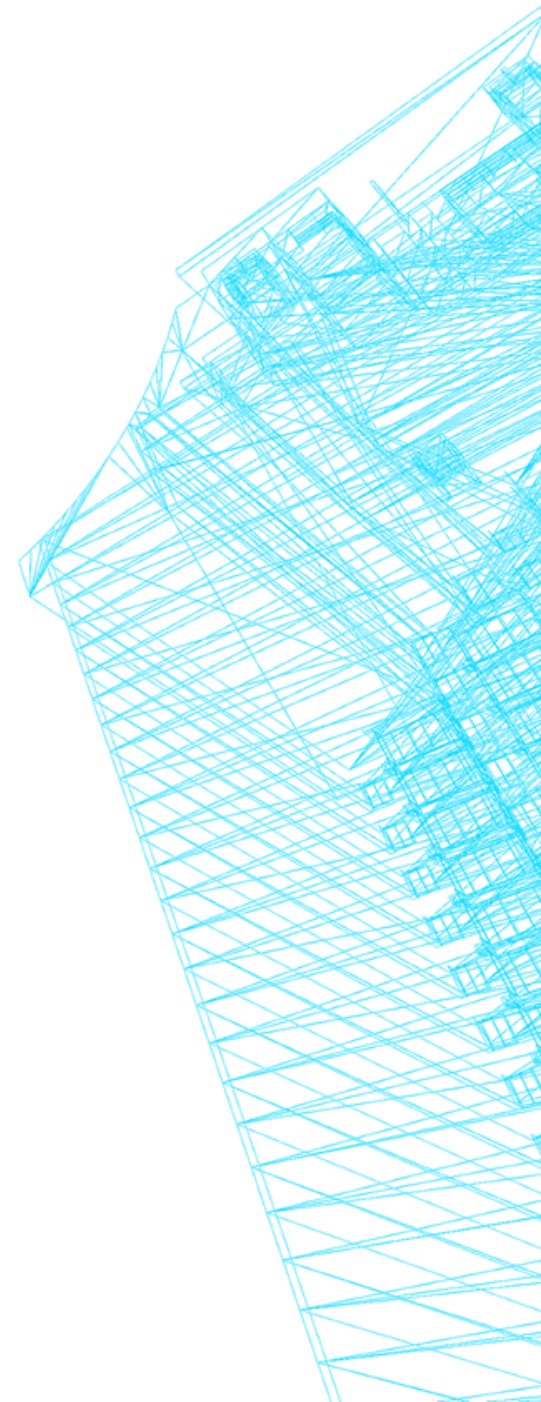
The Mark must fulfill all the requirements under the Trade Marks Act, 1999, Trade Marks Rules 2001 and The Trade Marks Amended Rules 2011, in order for it to be protected as a Trade Mark including as a Collective or Certification Mark.



# COST TO REGISTER A TRADEMARK IN JAMAICA

The fee is payable in two stages:

1. Application to register	\$7,800
Each additional class	\$ 2,200
2. Acceptance of the mark for registration	\$ 7,800
Publication of the mark in the Trade Marks Journal	\$ 2,200

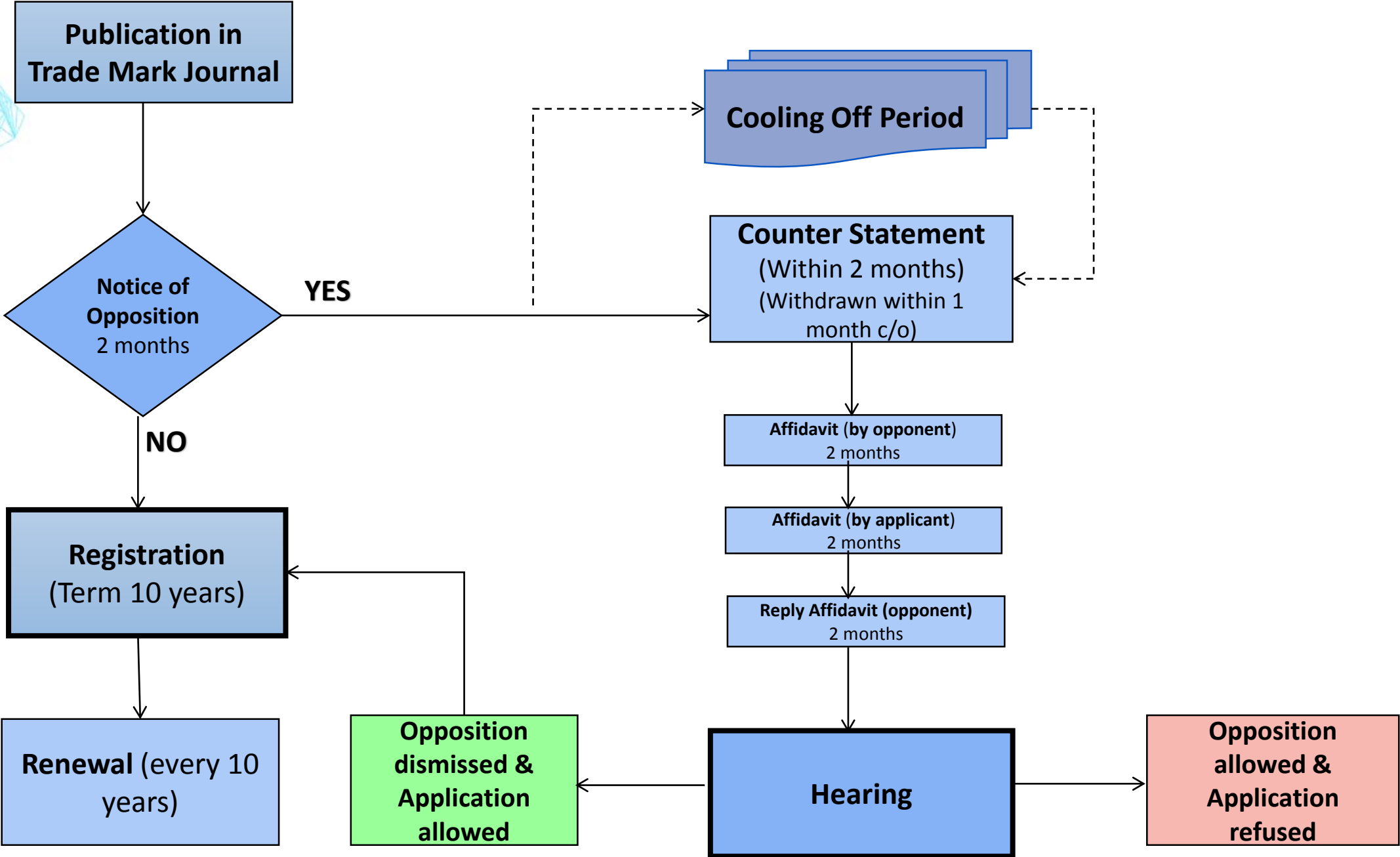




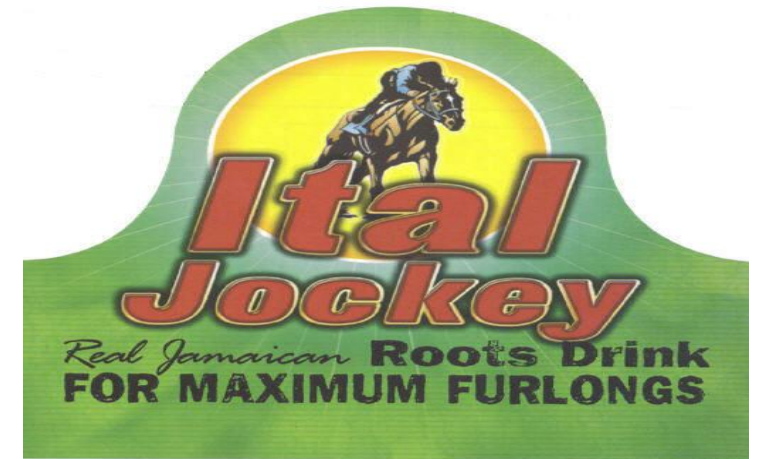
# TRADE MARK OPPOSITIONS

- Post- Publication
  - An opposition cannot be commenced until after the trade mark application has been advertised in the JIPO Trade Marks Journal.
- Opposition Period
  - A trade mark application in Jamaica is open to opposition **for two months** from the date of advertisement of the application in the Trade Marks Journal.
- Grounds
  - In Jamaica, trade mark oppositions can be filed on any ground provided by law including both on the basis of absolute grounds or on the basis of relative grounds for refusal
  - Absolute grounds e.g. the trade mark concerned is descriptive and non-distinctive and should be free for all traders to use. *See S. 11 Trade Marks Act, 1999.*
  - Relative grounds e.g. the trade mark is confusingly similar to an existing registered mark or conflicts with existing prior common law rights established under the tort of passing off. *See S. 13 Trade Marks Act, 1999.*
  - In opposition proceedings, only the owner of prior relative rights can assert those rights whereas any person may file an opposition in Jamaica based on absolute grounds.

Trade Mark Opposition in Jamaica



# TRADE MARKS



# PROTECTION OF COUNTRY NAMES

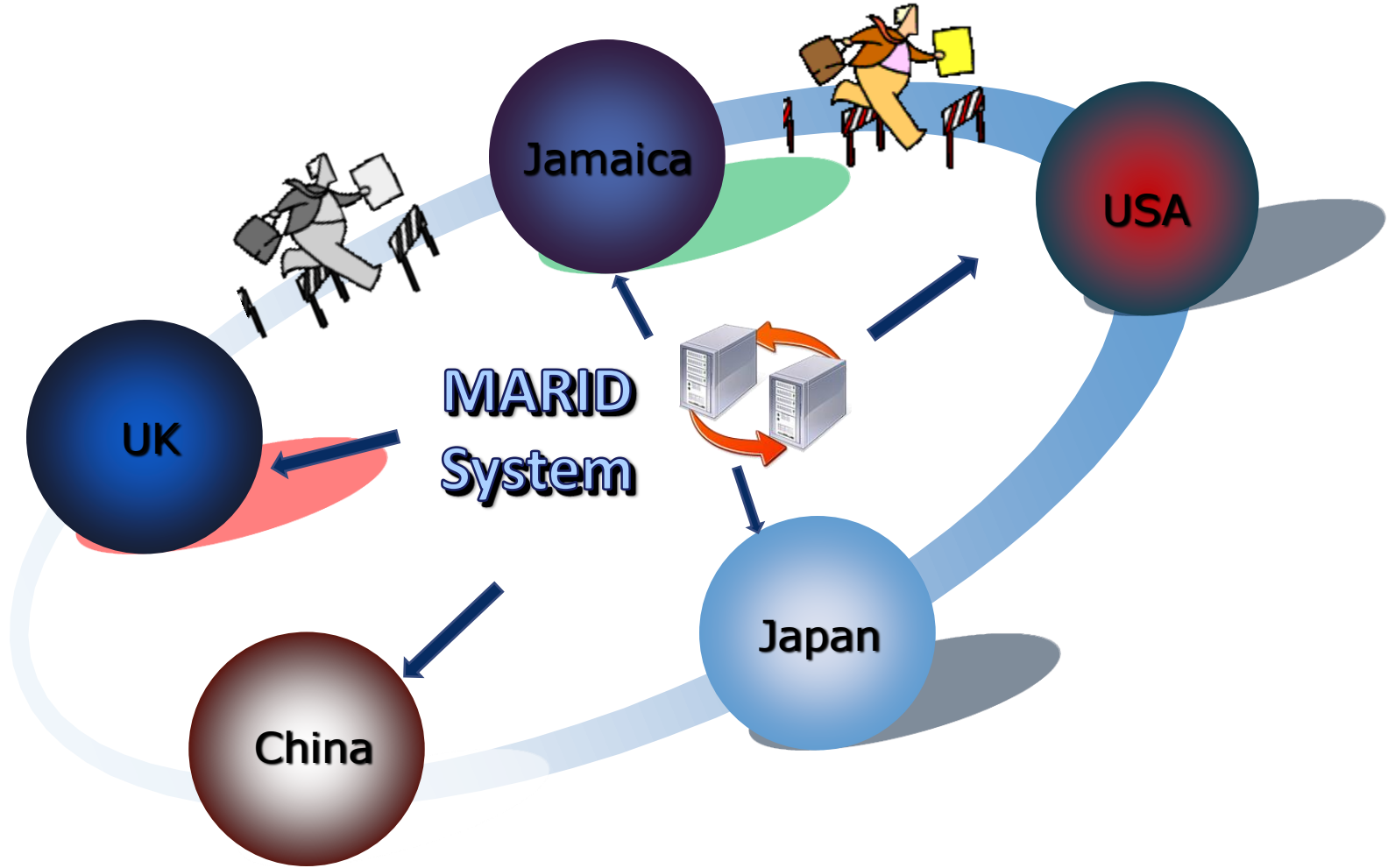
- Jamaica has a strong brand globally
- Any TM which has the name of Jamaica in it or any other country name, will be refused unless the goods or services originate from the county that is named.
- JIPO is also seeking international protection for the country name “Jamaica” at the World Intellectual Property Organization (WIPO)
  - Standing Committee on Trade Marks, Designs & Geographical Indications (SCT)- Proposal for an international instrument to protect Country Names.
  - Jamaica has been lobbying for Country Name Protection since 2009



## TRADITIONAL KNOWLEDGE (TK) , TRADITIONAL CULTURAL EXPRESSIONS (TCE)

- Any TM which contains any aspects of the Traditional Knowledge or Traditional Cultural Expressions of Indigenous & Local Communities will be refused, unless the applicant is a member of the community or has the permission from the community or a community organization or recognized representative.
- Draft National Framework for the Protection of Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions in Jamaica (2015)
  - Draft Regional TK Model Law

# Coming Soon: The Madrid System





# THE CARIBBEAN TRADEMARK MANUAL

- JIPO has contributed extensively to the WIPO sponsored project to develop a Caribbean Trade Marks Manual for English-speaking Caribbean Community (CARICOM) countries
- Regional consultations, Grenada July 2017
- Manual is a step towards the harmonization of trade mark examination practices throughout the CARICOM region.
  - Comparative Analysis of Trade Marks Laws across the Caribbean region
  - Recommendations with respect to Uniform Procedures that may be utilized throughout the region for examination and opposition of trade marks



# GEOGRAPHICAL INDICATIONS

- “An indication which identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin” – The Protection of Geographical Indications Act, 2004
- Valid for as long as the link to the geographical origin is maintained
- 2008 - 2010 JIPO, in partnership with the Swiss Federal Institute of Intellectual Property, coordinated a Geographical Indications Project in Jamaica.
  - By the end of the project hundreds of Jamaicans received training in the area of geographical indications with over forty persons receiving specialised training in geographical indications.





# GEOGRAPHICAL INDICATIONS

- The training focused on Blue Mountain Coffee, Jamaica Jerk, and Jamaica Rum and establishing the terroir (connection to land) that makes those products eligible for Geographical Indication protection.
- Registration of **“JAMAICA JERK”**- September 30, 2015
- Registration of **“JAMAICA RUM”**- December 1, 2016
- The Protection of Geographical Indications Act is in the process of being amended to provide the higher level of protection to non-wines and spirits
- Protection of Geographical Indications under Article 145E of the CARIFORUM-EU Economic Partnership Agreement



# GI REGISTRABILITY CRITERIA

- Applicant must be producer/group of producers
- Quality or reputation of product is specifically linked to a geographical location
- Application must contain specified quality and procedural standards
- J\$30,000.00 registration fee



# GI REGISTRATION PROCEDURE

- File application at JIPO – form & fee
- Application will be examined for compliance with Protection of GIs Act & Regulations
- If application approved, has to be published in Jamaica Gazette
- 3 months allowed for objections
- If no objections, proceed to registration
- Publish fact of registration (in Gazette or newspaper)

# Potential Jamaican GIs

**J e r k**



JAMAICAN RUM

- "Blue Mountain Coffee"
- "Jamaica Rum"
- "Jamaica Jerk"
- "Jamaica Ginger"
- "Lucea Yam"
- "Trelawny Yam"
- "Jamaican Scotch Bonnet Pepper"



BLUE MOUNTAIN COFFEE



# PATENT & DESIGN PROTECTION IN JAMAICA

## Patent

- Right to exclude others from making or selling the invention
- Valid for 14 years, possible extension for 7 years
- *Coming soon:*
  - **Patent and Designs Act**
  - The Patent Cooperation Treaty

## Design

- An industrial design is the ornamental or aesthetic aspect of an article
- Protection 14 years
- Cost \$1,500.00
- Design Form, Statement of novelty, Drawings or pictures of the product showing different views



# Copyright & Related Rights

## **COPYRIGHT**

- literary works
- dramatic works
- musical works
- artistic works
- = **life of author + 95 years**

## **RELATED RIGHTS**

- Films
- Broadcasts and cable programmes
- sound recordings
- typographical arrangements of published editions
- = **95 years from date of creation or publication (whichever is later)**



# COPYRIGHT & RELATED RIGHTS

- Copyright-based industries such as film, craft, graphic design, music and software are major lucrative sectors for Jamaica which is known for its abundance of cultural and creative talent.
- WIPO, JIPO, commissioned a national study on the economic contribution of the copyright-based industries to Jamaica.
- The study found that in 2005, the copyright sector contributed J\$29 billion in producer's values at constant (1996) prices (US\$464.7 million), or **4.8 % of GDP**. The sector also accounted for 3.03 % of employment.



# COPYRIGHT & RELATED RIGHTS

- JIPOs Copyright Directorate focuses on public education programmes and legislative development
- JIPO also offers the **Voluntary Copyright Registration System**
- *Coming Soon:* Collective Management Organization Regulations





# OTHER JIPO INITIATIVES

## IP in Sports

- JIPO collaborated with WIPO and the Ministry of Culture, Gender, Entertainment & Sport to host a 2 day **Inter-Regional Seminar on the Strategic Use of Intellectual Property in Sports, Kingston, Jamaica, September 19 and 20, 2017**
- JIPO is the first IP Office to have undertaken exploring this subject area and linking IP with Sports.
  - First seminar on Sports and Intellectual Property hosted by JIPO in April, 2011.
- The focus on sports is significant for Jamaica, given our country's success and dominance in Athletics on the world stage



# OTHER JIPO INITIATIVES

## **IP Week**

- Intellectual Property Week is Jamaica's annual celebrations surrounding World Intellectual Property Day (April 26) observed by JIPO's international partner- the World Intellectual Property Organization (WIPO)- celebrating innovation and creativity while promoting intellectual property's role in fostering and encouraging them.
- Intellectual Property Week is geared to increase the general understanding of what IP really means and offers a chance to highlight, discuss and demonstrate how the IP system contributes to the flourishing of music and the arts and to driving the technological innovation that helps shape our world.



# VISION 2030

- Vision 2030 Jamaica is Jamaica's first long term national development plan, which covers the 21 year period 2009-2030.
- Plan presents a strategic road map for Jamaica to achieve developed country status by 2030
- Vision Statement *"Jamaica, the place of choice to live, work, raise families and do business"*
- JIPO plays an important role in the planning process and long term development strategy of the Government of Jamaica as evidenced by JIPO's participation in pursuing the goals & achieving the targets of Vision 2030



# KEY ACHIEVEMENTS OVER 2016/2017

- Received over two thousand two hundred (2,200) intellectual property rights applications
- Registered over two thousand one hundred and sixty (2,160) intellectual property rights
- Assisted over 4000 customers on the telephone and 2207 in-house customers
- Conducted training for the Intellectual Property Offices in Grenada and St. Vincent and the Grenadines
- Hosted business labs for new entrepreneurs under the Regional Entrepreneurial Asset Commercialization (REACH) Hub Project
- Provided training to sixty (60) potential and existing patent examiners under the ACP EU TBT programme



## **Jamaica Intellectual Property Office**

(An agency of the Ministry of Industry, Commerce,  
Agriculture & Fisheries)

18 Trafalgar Road

Kingston 10.

**(876).946.1300 / 946-0789**

**Website: <http://www.jipo.gov.jm>**

**Email: [info@jipo.gov.jm](mailto:info@jipo.gov.jm)**

# **THANK YOU!**