

Tourism and intellectual property – how to protect your brand

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Key Points

- Tourism is a key sector in the Pacific region.
- Businesses are looking for ways to differentiate themselves in the crowded market.
- If you are a business offering tourist-based services, you need to protect your brand through intellectual property registration

Introduction

The Pacific Islands typically evokes an image of paradise, of white sandy beaches, exquisite cocktails, beautiful natural scenery, and a vibrant and diverse culture. This image has attracted holidaymakers to the region for decades, making it a popular travel destination.

Tourism is a major driver of the regional economy in the Pacific, and has seen sustained growth in recent years.[1] It also improves socio-economic standards in the region by providing greater opportunities for employment.

Key to the success of any business in the tourism industry is standing out in an already crowded market. This is achieved by developing, protecting and distributing a differentiated brand. If you are operating within the tourism industry across the Pacific, it is important that as your brand becomes well recognised, it is protected under the law.

Tourism in the Pacific

Tourism is a key industry in the Pacific. Tourism in Fiji, for instance, has surpassed other industries as the leading foreign exchange earner.[2] In 2014, tourism in Fiji saw revenue of 1,404.6 FJD Million, up from 1,318.2 FJD Million in 2013.[3]

Most visitors to Pacific destinations are from Australia, New Zealand and the USA[4] with the majority of the region's hotels and resorts categorised as mid-range, supporting a general leisure market.[5] Beyond these "traditional" sources of tourism, there has been an influx of Chinese tourists to the region,[6] helping to boost local tourism industries. In fact, the South Pacific Tourism Organisation (SPTO) has stated that Chinese tourists are the future for tourism in the Pacific.[7]

The SPTO is the mandated organisation representing Tourism in the region.[8] Its vision is that *"tourism will inspire sustainable economic growth and empower the Pacific people"*. [9] The SPTO has led to an intensified marketing of the Pacific brand as well as individual country brands.[10]

The importance of unique branding

Tourism has always been heavily associated with brand identity.[11] Having a strong and recognisable brand is an important asset to your business – your brand allows your customers to differentiate your service offering from the many other tourism businesses.[12] As your reputation grows, your brand becomes a valuable asset.

Conversely, having a unique brand identity also makes it easier for your competitors to notice you. The exploitation of your brand works both ways – if your brand is not adequately protected, it can be capitalised on by other businesses seeking to cash in on the value that your brand creates in the minds of customers.

How can you better protect your brand?

The type of intellectual property most commonly associated with brand protection are trade marks. A trade mark is the way in which your businesses' branding is uniquely identified, such as your business name, logo, a particular style of branding, and other ways that set you apart from your competitors. It can be a letter, number, word, phrase, sound, smell, shape, picture, aspect of packaging or a combination of those.[13]

Formalising your trade mark protection will give you the exclusive right to use, license and sell your trade mark without risk of being copied.[14] It is a necessity in the modern business economy and particularly in the tourism industry, where customer recognition and loyalty can mean the difference between the success and failure of a business.

Intellectual property is something that can be sold and transferred. This is important if you decide to sell your business, as having your brand trademarked will add a valuable asset to your business.

How do you protect your trade mark across the Pacific?

Fiji

Fiji allows trademarks to be registered by filing a national registration or by seeking registration based on an existing, corresponding United Kingdom registration. Registration lasts for a maximum of 14 years.[15]

Papua New Guinea

Papua New Guinea allows trademarks to be registered which lasts for 10 years.[16]

Solomon Islands

In The Solomon Islands you can register your trade mark for a period of 10 10 years with 10 year renewal terms.[17] However, they must be based on a corresponding United Kingdom registration.[18]

Vanuatu

Trade mark registration in Vanuatu lasts for a period of 10 years, renewable at 10 year intervals.[19]

Samoa

Trademarks are protected in Samoa for a period of 10 years.[20]

Tonga

Trademark registration in Tonga lasts for a period of 10 years with 10 year renewal.[21]

The Cook Islands, Nauru, Palau and Micronesia have not adopted formalised registration systems. The trade mark systems in these jurisdictions are governed by common law principles which recognise use of the trademarks and public awareness which can be shown by the publishing of cautionary notices.

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What next?

Your businesses' intellectual property should be protected just as rigorously as its' physical property. Registering and legally protecting your intellectual property gives you the means to fully leverage your brand and more easily distinguish your business from the crowded tourism market in the Pacific region.

Please see the experienced lawyers at PLN Australia for advice on how to protect your intellectual property across the Pacific.

Contact

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