

# EXPERT GUIDE

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## Destination: Cyprus: A Place Worth Investing

By Christodoulos G. Vassiliades on behalf of Christodoulos G. Vassiliades & Co LLC.



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On March 17th 2013, Cyprus, found itself in the spotlight of the world. The haircut “imposed” upon Cyprus bank accounts was the subject of much controversy. Nonetheless and despite the impact of this inevitable adjustment both in economic and societal terms, Cyprus remains an ideal investment regime provider.



Treaties and Cooperation Agreements, the highlight of which was its entry in the European Union in 2004.

As far as Intellectual Property is concerned, Cyprus is a member to various treaties and agreements the most important of which are set herewith:

- World Intellectual Property Organisation (WIPO) Performance and Phonograms Treaty
- Madrid Agreement Concerning the International Registration of Marks and Protocol to the Agreement
- Patent Cooperation Treaty
- Berne Convention for the Protection of Literary and Artistic Works.
- Paris Convention for the Protection of Industrial Property.

This article aims to provide an overview of the main commercial advantages of the Cyprus Intellectual property regime in the context of concurrently accruing tax advantages.

### Introducing Cyprus as an Intellectual Property Destination

Cyprus has two main economic pores: tourism and provision of services. In order to remain an attractive destination for services it has, over the years, attested to various

- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

- Trademark Law Treaty

- Trade Related Agreement on Intellectual Property Rights (TRIPS)

- European Patent Convention

- Unified Patent Agreement.

Evidently, the law in relation to the protection of intellectual property has been fully harmonised to meet European standards, while operating on a simple and user-friendly philosophy.

### The Trademarks example

Trademark protection has been delegated to the Trademarks Department, operating under the auspices of the Cyprus Registrar of Companies. The overall procedure is governed by Cap. 268 as amended which is, in essence, a faithful at-

testation of the Trademarks Directive.<sup>1</sup>

As far as the procedure is concerned, the latter is divided into three main stages: application, publication and issuance of Registration Certificate. The total official cost for registering a trademark is 150 EUR in one class. If protection is to be applied for in more than one classes of goods/services, separate applications need to be submitted.

As for the time-frame in which the procedure is completed, this depends on the work-load of the relevant Department and whether the application will be uncontested or not.

In Cyprus, the ex-officio examination, concerns both absolute as well as relative grounds of refusal.<sup>2</sup> The Registrar may impose any conditions or restrictions he thinks fit in the circumstances.<sup>3</sup> However, all ex-officio decisions are subject to a hearing or the submission of an argumentative letter in cases where



there is a lapse of opinion between the Registrar and the interested party.<sup>4</sup>

Stage two, publication, commences with the submission of the relevant form and signals the commencement of the opposition period for any third party wishing to object.<sup>5</sup> The opposition period lasts for two months.<sup>6</sup> If no opposition is submitted, the final stage consists of the issuance of a registration certificate.<sup>7</sup>

Protection begins from the date of filing and lasts for an initial period of seven years.<sup>8</sup> After the lapse of the first seven years, every renewal period lasts for 14 years<sup>9</sup> at the satisfaction of the renewal fee.<sup>10</sup>

Discernibly, the procedure is simple and already familiar to most European practitioners through the provisions of the Trademarks Directive. The latter becomes even simpler due to the online availability of the Official Trademarks Gazette and ability to track and monitor all changes made to the status

of the application via the TMVIEW tool. In addition to that, all Intellectual Property Services in Cyprus, function on a 'one-stop' philosophy. As a result, constant updates are the main characteristic of any national, CTM,<sup>11</sup> or international application.<sup>12</sup>

### **The Cyprus IP Box Scheme**

The scheme is part of a series of measures implemented in May 2012, primarily aiming to boost Cyprus economy. The former has been effective as of January 1st 2012. Its provisions may be characterised as highly promising and consist, inter alia, of 80% exemption of profits from the exploitation of IP Rights, 80% exemption of profits accruing from the disposal of IP rights and a five year amortisation period.

The provisions of the IP Box Scheme apply to net profits making it even more favourable than it already is. The scheme is not limited to patents but embraces the entirety of Intellectual Property Rights, trade and marketing intangibles.<sup>13</sup> As a

result, its context of application is very broad. This is despite the fact that some view the inclusion of marketing intangibles as redundant - due to the "monopolistic" protection afforded to the former - which allows the owner to make precisely-calculated investment expenditure.

It is also important to note that the holder of the IPRs need not have borne the R&D expenditure nor have been actively involved in the management of the right.<sup>14</sup> Acquiring the right through licensing<sup>15</sup> will qualify for the purposes of the Cyprus IP Box Scheme. If the fact that the corporate tax rate in Cyprus is as low as 12, 5% is also considered, any tax-deductible amount will only be subjected to a tax rate of 2.5%.

In addition, one may also elect to explore and exploit the favourable tax-regime currently applying in the Republic.

### **Collateral Advantages: The Tax Regime under the Cyprus Corporate Structure**

Further to the favourable conditions offered by the IP Box Scheme, the tax regime applicable in Cyprus also provides a strong incentive for investing in the Republic especially when approached in the context of the corporate shield. This is due to the fact that dividends distributed by a Cyprus company to non-Cyprus residents are exempt from withholding tax.<sup>16</sup>

Thus, the former, in addition to the numerous double tax Treaties<sup>17</sup> currently in force, establish Cyprus-incorporated companies as an ideal vehicle for the optimisation of any kind of commercial activity.

### **Conclusion**

In conclusion, Cyprus indisputably is the place to invest. The attractive IP Box provisions along with the favorable tax regime and simplicity of procedures comprise the ideal investment environment.



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He is a law graduate of the University of Athens (1980) and has completed post-graduate studies at the LSE (1983). Immediately after completing his pupillage in 1984, he set up Christodoulos G. Vassiliades &

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He is also an active member of numerous professional associations including the Cyprus Bar Association, Nicosia Bar Association and Institute of Trademark Attorneys.



1 - Directive 2008/95/EC

2 - Cap. 268, A. 14(1),

3 - Ibid., A.19(2)

4 - Trademark Rules, R. 32

5 - Ibid, R.40

6 - Ibid.

7 - N.2, A. 21(1)

8 - Ibid., A. 22

9 - Ibid.

10 - Currently set at 100 EUR.

11 - Via Community Trademarks Regulations, the Madrid Agreement and Protocol to the Agreement. (4th November 2003)

12 - Via the Madrid Agreement and Protocol (4th November 2003)

13 - OECD (2010a)

14 - HMRC (2012) p. 26

15 - This is a matter in the ambit of the full discretion of the parties involved. The Registrar's request is limited to the provision of the main terms of the agreement along with a confirmation for the truthfulness of its content.

16 - A. 3(2)(a), N.117(I)/2002, Alternatively, the same can also be achieved through the mechanism of a Cyprus International Trust. N. 69(I)/92 as amended by N.20(I)/2012

17 - [http://www.mof.gov.cy/mof/mof.nsf/page26\\_en/page26\\_en?OpenDocument](http://www.mof.gov.cy/mof/mof.nsf/page26_en/page26_en?OpenDocument)