



Statement by the Minister of Commerce, Hon. Wayne Panton On the Modernisation of Cayman's Intellectual Property Protection Regime

Wednesday, 15 April 2015 | Cayman Islands Legislative Assembly

Madam Speaker and Honourable Members of the Legislative Assembly:

The global economy has developed in both complexity and sophistication over the past few decades and accordingly, as a leading international financial centre, Cayman's economy has grown in tandem. As a driver of this economic evolution, the innovation and creativity of modern technology is leading to new ways – and new types – of business; just as significantly, it's transforming our personal lives. Yet even as it permeates all aspects of our professional and personal endeavours, technology still continues to evolve, as fresh ideas are conceived and brought into reality.

Underpinning this constant sea change of activity – and bringing logic and ethics to it – is the protection of a person's rights to benefit from their creativity. These rights, rights relating to a person's intellectual property, are critical to encourage the application of technology in any economy.

Madam Speaker, the protection of intellectual property is categorised in several key areas: patents, copyrights, trade marks, design rights and trade secrets. *Basic* protection in these areas is necessary for economic success; *advanced* protection is critical to allow creativity in an economy to really flourish.

It is with this understanding that the Government has begun the process of modernising the intellectual property protection regime in the Cayman Islands.

Madam Speaker and Honourable Members of the Legislative Assembly should be aware that on 19 March this year, at our request, the UK extended its 1988 Copyright Act to the Cayman Islands through the Copyright (Cayman Islands) Order, 2015, as passed by the Privy Council.

This was the first major milestone in Government's efforts. In order to extend the 1988 Copyright Act to Cayman, the extension of the UK's 1956 Copyright Act had to be revoked first; both actions were accomplished through the new Copyright (Cayman Islands) Order 2015. Madam Speaker, as indicated in the Order, I note that the extension of the 1988 Copyright Act is subject to changes requested by the Cayman Islands Government.

Although passed, the 2015 Order that gives effect to the 1988 Copyright Act will not come into force in the Cayman Islands until a commencement date has been determined. It is anticipated that there will be at least a six-month period before commencement, to allow the Ministry of Commerce to conduct a public education campaign and to make necessary arrangements for local implementation.

Madam Speaker, there are other initiatives underway to strengthen our intellectual property regime.

The next major step is the introduction of a local register for trade marks. I expect to bring a new Trade Marks Bill to this Honourable House in the next few months.

Currently, registration of trade marks must first be done in the UK, and then extended to Cayman. This introduces extra costs and steps to the registration process. There are also other costly requirements to use a trade mark in the UK, which serve to prevent a challenge to the trade mark.

A local trade mark registration system will make this protection more accessible to local individuals and companies. It also will allow the exclusion of specified words that can be protected in the UK, but which should not be restricted to any individual or company locally (e.g. 'Cayman').

Further to this, Government is seeking to improve the ability of local trade mark holders to extend these rights internationally, through several international treaties and conventions.

New trade marks legislation will require a repeal of the current Patents and Trade Marks Law. Because we are creating separate marks legislation, Madam Speaker, we subsequently will need to create a new, separate law for patents. Other than a few small changes, this legislation essentially will include the same elements of the current patents law.

The focus on the patents side is to allow access by local persons to the international patent system. This access, through what is known as the Patents Cooperation Treaty, would allow entities in the Cayman Islands to apply for patent protection in more than 140 countries.

Madam Speaker, my Ministry has been and continues to work closely with the UK's Intellectual Property Office to take the necessary steps for our IP modernisation. Their assistance during the first modernisation phase has been invaluable, and we are grateful for their ongoing support, as we move into the second phase of our reform process.

Madam Speaker, I already have alluded to the importance of IP protection, and provided an outline of our three main areas of focus – again, these being copyrights, trade marks, and patents. I would, however, take a few minutes to go into more detail on why this initiative is important.

There are several notable benefits to modernising Cayman's copyright protection. First, there is the protection for locally created content. Our artists and musicians are world class, and while this is recognised locally, there is a strong need for Cayman to meet international standards in order to ensure that the rights of our creative community can be recognised and protected abroad.

Second, by modernising Cayman's IP standards, our economy will become even more attractive to foreign investment in areas for which IP protection is important. We have an opportunity to see technology-based businesses flourish in Cayman, particularly through synergies with already established industries.

Third, by recognising IP rights of entities from other jurisdictions, there is the potential to broaden our local access to goods and services from other markets. There are other potential benefits – from government revenue, to job creation, to overall economic growth – but there is no denying the significance that a modern IP protection regime plays in a world that is driven by technology.

Madam Speaker, before I close, I bring to this Honourable House's attention that while there are clear benefits to IP modernisation, there also are several impacts to consider. The primary concern will be if businesses or individuals are infringing on the IP rights of others. If the holder of the rights identifies that their rights are being infringed, they may decide to take legal action. This, at a minimum, could lead to the seizure of goods, but also may involve fines, penalties or damages, depending on the extent of the infringing activity. It is these impacts that we seek to bring clarity to and manage with the education program mentioned earlier to avoid misinformation creating mischief and undue concern.

However, I emphasise that intellectual property is an asset, one that is critical to many businesses for a variety of reasons. Infringing those rights therefore is akin to theft, whether intentional or otherwise. This simply is common sense, and common decency. Logically and ethically, businesses and individuals should have the right to benefit from their works, as this will justify not only their creativity and innovation, but also the time, energy, and cost that goes into creating an IP asset.

In closing, Madam Speaker, while we already have achieved a significant milestone in modernising our IP protection regime, there is much left to be done. Nevertheless, with the support of the Honourable Members of this House, industry, and other key stakeholders, we will enhance this foundation for the long-term growth, and the economic diversity and success, of our Islands.

Thank you, Madam Speaker.

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