

BELIZE:

TRADE MARKS (MADRID PROTOCOL) REGULATIONS 2023

ARRANGEMENT OF REGULATIONS

PART I

Preliminary

1. Citation.
2. Interpretation.
3. Entitlement to file an international application.

PART II

International Applications Originating From Belize

4. Examination of international applications where Belize is the Office of origin.
5. Handling fee.
6. Irregularities with the international application, to be remedied before the Registrar.
7. Certification by the Registrar.
8. Irregularities with the international application, to be remedied before the International Bureau.
9. Classification of goods and services.
10. Ceasing of effect of the basic application or basic registration.

PART III

*International Registrations Where Belize Is
A Designated Contracting Party*

11. Effects of an international registration.
12. Examination of international registrations.
13. Collective and certification marks.
14. Ex officio provisional refusal of protection.
15. Publication of international registration; opposition.
in accordance with Article 5(2)(c) of the Madrid Protocol.
16. Provisional refusal based on an opposition.
17. No grounds for refusal – statement of grant of protection.
18. Statement of grant of protection following the notification of a provisional refusal.
19. Confirmation of total refusal.
20. Appeals.
21. Further decision affecting the protection of a mark.
22. Invalidation.
23. Replacement.
24. Transformation.
25. Renewal of international registrations designating Belize.

26. Recordings in the International Register.
27. Declaration that a change in ownership in an international registration has no effect in Belize.
28. Declaration that a limitation of goods and services in an international registration has no effect in Belize.
29. Licenses.
30. Corrections in the International Register.
31. Commencement.

BELIZE:

STATUTORY INSTRUMENT

No. 16 of 2023

REGULATIONS made by the Minister responsible for intellectual property in exercise of the powers conferred upon him by section 71A of the Trade Marks Act, Chapter 245 of the Substantive Laws of Belize, Revised Edition 2020, and all other powers thereunto him enabling.

(Gazetted 28th January, 2023).

PART I

Preliminary

1. These Regulations may be cited as the

Citation.

**TRADE MARKS (MADRID PROTOCOL)
REGULATIONS, 2023.**

2.–(1) In these Regulations–

Interpretation.

“applicant” refers to the natural person or legal entity in whose name an international application is filed with the Registrar;

“Contracting Party” means Contracting States or Contracting Organizations who are signatories to the Madrid Protocol;

“designated Contracting Party” means a Contracting Party for which the extension of protection has been requested under Article 3ter(1) or (2) of the Madrid Protocol, as the case may be, or in respect of which such extension has been recorded in the International Register;

“designation” includes the request for extension of protection to Belize under Article 3ter(1) or (2) of the Madrid Protocol,

as the case may be or the extension as recorded in the International Register;

“holder” means the natural person or legal entity in whose name an international registration is recorded in the International Register;

“International Bureau” means the International Bureau of the World Intellectual Property Organization;

“International Register” means the official collection of data concerning international registrations of marks maintained by the International Bureau;

“international registration date” is the date of an international registration as determined by the International Bureau;

“invalidation” means a final decision by the Court invalidating the effects of the protected international registration designating Belize with regard to all or some of the goods or services covered by the designation or subsequent designation in Belize;

“Office of origin” means the Office of the Contracting Party where, in accordance with Article 2(2) of the Madrid Protocol, the international application was filed;

“subsequent designation” includes the request for extension of protection to Belize under Article 3ter(2) of the Madrid Protocol or the such extension as recorded in the International Register.

PART II

International Applications Originating From Belize

Entitlement
to file an
international
application.

3.–(1) A natural person or legal entity, that is a national of Belize, is domiciled in Belize or has a real and effective industrial or commercial establishment in Belize, is entitled to file an international application with the Registrar, provided the basic application(s) or basic registration(s), as the case

may be, used as a basis to file the international application is in the name of that natural person or legal entity.

(2) The applicant shall provide, at the request of the Registrar, such evidence as may be necessary to satisfy the Registrar that the applicant is entitled to file the application in accordance with sub-regulation (1).

4. Where an international application is filed with the Registrar for transmittal to the International Bureau, the Registrar shall verify that the Office of Belize may be considered as the Office of origin for that application, and that the relevant particulars appearing in the international application correspond to those appearing in the basic application(s) or basic registration(s), as the case may be, in accordance with the Regulations under the Protocol.

Examination of international applications where Belize is the office of origin.

5. The prescribed fee shall be due and payable to the Registrar in connection with the filing of an international application originating in Belize.

Handling fee.

6.–(1) Where the international application does not comply with the prescribed requirements, the Registrar shall give the applicant the opportunity to submit the requested information or to pay the handling fee.

Irregularities with the international application, to be remedied before the Registrar.

(2) The prescribed fee shall be due and payable to the Registrar in connection with the filing of an international application originating in Belize.

(3) Where the applicant does not provide the requested information or pay the handling fee within the stipulated time determined by the Registrar, the international application is considered abandoned and the Registrar shall not forward the application to the International Bureau.

7. Where the international application complies with the prescribed requirements including payment of the handling

Certification by the Registrar.

fee, the Registrar shall certify the international application, also indicating the date of its receipt and shall forward the international application to the International Bureau.

Irregularities with the international application, to be remedied before the International Bureau.

8.—(1) The Registrar shall respond to the International Bureau, in respect of any irregularities issued under regulations 11 to 13 of the Regulations under the Protocol, within the stipulated time limit given by the International Bureau and where necessary, the Registrar shall consult with the applicant.

(2) Where the irregularity has to be remedied by the Office of origin, the Registrar shall consult with the applicant and give a short time limit to provide the requested information.

(3) Where the information requested under sub-regulation (2) is received within the time limit, the Registrar shall forward the information to the International Bureau.

Classification of goods and services.

9. The classification of goods and services of an international application shall be subject to regulation 9(4)(xiii) of the Regulations under the Protocol where the decision of the International Bureau shall be final.

Ceasing of effect of the basic application or basic registration.

10.—(1) Where, in accordance with Article 6 of the Madrid Protocol, the basic application, the registration resulting from such application, or the basic registration, ceases to have effect, the Registrar shall inform the International Bureau accordingly, in accordance with regulation 22 of the Regulations under the Protocol, requesting the cancellation of the international registration.

(2) Where the facts and decisions of the basic registration or basic application affect the international registration only with respect to some of the goods and services, the Registrar shall indicate those goods and services which are affected by the facts and decisions of those goods and services which are not affected by the facts and decisions.

PART III

International Registrations Where Belize Is A Designated Contracting Party

11.-(1) An international registration designating Belize shall have the same effects, as from the date of the international registration or of the subsequent designation of Belize, as the case may be, as an application for the registration of the mark filed directly with the Registrar under the Act.

Effects of an international registration.

(2) The date of filing of an international registration designating Belize is the date of the international registration where Belize is designated in the international registration, or the date of the subsequent designation of Belize where Belize is designated subsequently to the international registration.

(3) The indication of classes of goods and services set out in the international registration, in which Belize is designated, shall not bind the Registrar with regard to the determination of the scope of the protection of the mark.

(4) If no refusal is notified by the Registrar to the International Bureau in accordance with the Madrid Protocol and the Regulations under the Protocol, or if a refusal has been so notified but has been subsequently withdrawn, or if a statement of grant of protection is sent by the Registrar, the protection of the mark in Belize shall be the same as if the mark had been registered directly by the Registrar on the date of the international registration or of the subsequent designation of Belize, as the case may be.

12.-(1) The Registrar shall examine the marks that are the subject of international registrations designating Belize with reference to sections 35 to 37 of the Act.

Examination of international registrations.

(2) Where any elements of a mark being examined under sub-regulation (1) are in a language other than English, and

the holder has not declared that the word has no meaning, a translation into English is required.

(3) Where a translation required under sub-regulation (2) is not included in the international registration, the Registrar shall issue an ex officio provisional refusal under regulation 14.

Collective and certification marks.

13.—(1) Section 57 of the Act shall apply mutatis mutandis for collective marks in international registrations designating Belize.

(2) Section 58 of the Act shall apply mutatis mutandis for certification marks in international registrations designating Belize.

(3) Where the regulations governing the use of collective or certification marks have not been submitted directly to the Registrar, the Registrar shall issue an ex officio provisional refusal under regulation 14.

Ex officio provisional refusal of protection.

14.—(1) Where the Registrar finds that, in accordance with the Act, an international registration designating Belize cannot be accepted or can be accepted with conditions only, the Registrar shall, before the expiry of the refusal period specified in Article 5(2)(b) of the Madrid Protocol, notify the International Bureau of a provisional refusal of protection in accordance with the requirements of the Madrid Protocol and the Regulations under the Protocol.

(2) The holder of an international registration under sub-regulation (1) shall enjoy the same remedies as if the mark had been filed for registration directly with the Registrar.

(3) The Registrar shall give written notification to the International Bureau of the provisional refusal of any international registration designating Belize along with a statement of all grounds, before the expiry of 18 months

from the date on which the notification of the extension has been sent to Belize by the International Bureau.

(4) The holder may respond to the provisional refusal by requesting a review of the decision within a period of three months from the date of the notification to the holder by the International Bureau.

(5) Where the holder has no address for service in Belize, the request for review shall be submitted in writing, through a duly appointed agent, in accordance with section 73 of the Act, together with a power of attorney.

(6) Where the holder does not respond to the provisional refusal within the given time limit, the designation of Belize shall be deemed abandoned.

15.—(1) Where Belize has been designated in an international registration and the Registrar finds that the mark that is the subject of that international registration is acceptable, the Registrar shall publish the international registration.

Publication of international registration; opposition.

(2) A person who opposes the protection of an international registration designating Belize (the opponent) may file with the Registrar a notice of opposition within the period of three months from the date of publication.

(3) Opposition to an international registration shall be governed by section 16 of the Act, *mutatis mutandis*.

16.—(1) Where a notice of opposition is filed with the Registrar in respect of an international registration designating Belize, the Registrar shall, before the expiry of the refusal period specified in Article 5(2)(b) of the Madrid Protocol, notify that fact to the International Bureau as a provisional refusal based on an opposition, complying with the requirements of the Madrid Protocol and the Regulations under the Protocol.

Provisional refusal based on an opposition.

(2) The holder of the international registration concerned shall enjoy the same remedies as if the mark had been filed for registration directly with the Registrar.

(3) The holder may file his counter-statement within a period of three months, from the date of the notification to the holder sent by the International Bureau.

(4) Where the holder has no address for service in Belize, the request for review shall be submitted in writing, through a duly appointed agent, in accordance with section 73 of the Act, together with a power of attorney.

(5) Where the holder does not file his counter-statement within the given time limit, the designation of Belize shall be deemed abandoned.

(6) After giving both parties opportunities to present their arguments, the Registrar shall make a decision on the opposition and the possible protection of the international registration in Belize.

No grounds
for refusal
– statement
of grant of
protection.

17. Where all the procedures before the Office have been completed, the Registrar has not found grounds to refuse protection, has not received a notice of opposition and, as a result, has not notified a provisional refusal in accordance with regulation 14 or regulation 16, the Registrar shall, as soon as possible and before the expiry of the refusal period applicable under Article 5(2) of the Madrid Protocol, send to the International Bureau a statement to the effect that protection is granted to the mark in Belize, in accordance with the Regulations under the Protocol.

Statement
of grant of
protection
following the
notification of
a provisional
refusal.

18. Where the Registrar has notified the International Bureau of a provisional refusal of protection in accordance with regulation 14 or regulation 16 and, all the procedures before the Office having been completed, the mark is either totally or partially protected, the Registrar shall send to the

International Bureau, in accordance with the Regulations under the Protocol—

- (a) a statement to the effect that the provisional refusal is withdrawn and that protection of the mark is granted in Belize for all the goods and services for which protection has been requested, or
- (b) a statement indicating the goods and services for which, or the conditions under which, protection of the mark is granted in Belize.

19. Where the Registrar has sent to the International Bureau a notification of total provisional refusal in accordance with regulation 14 or regulation 16 and all the procedures before the Office having been completed, the Registrar has decided to confirm such refusal of protection of the mark in Belize for all the goods and services for which protection has been requested, the Registrar shall send to the International Bureau a statement to that effect, in accordance with the Regulations under the Protocol.

Confirmation
of total refusal.

20.—(1) A person aggrieved with any decision made by the Registrar in respect to international registrations designating Belize, in accordance with section 70 of the Act, may appeal that decision to the Court within 14 days from the date of such decision.

Appeals.

(2) A decision, judgment or order of the Court following the appeal filed under sub-regulation (1) shall be communicated to the International Bureau as a further decision, in accordance with regulation 22.

21. Where a notification of provisional refusal has not been sent by the Registrar within the applicable time limit under Article 5(2) of the Madrid Protocol, or, where following the sending of a statement in accordance with regulations 17 to

Further
decision
affecting the
protection of a
mark.

19, a further decision, taken by the Registrar or the Court, affects the protection of a mark in Belize, the Registrar shall, to the extent that the Registrar is aware of that decision, without prejudice to regulation 18 of the Regulations under the Protocol or regulation 22, send to the International Bureau a further statement indicating the status of the mark and, where applicable, the goods and services for which the mark is protected in Belize.

Invalidation.

22. Where, upon a final decision, the Court pronounces the invalidation of the effects of an international registration in Belize, provided that the Registrar is made aware of that decision, the Registrar shall notify the International Bureau in accordance with the Regulations under the Protocol.

Replacement.

23.-(1) Where-

- (a) a mark registered in Belize is also the subject of an international registration, and the protection resulting therefrom extends to Belize; and
- (b) the same person is recorded as holder of the registration in Belize and of the international registration; and
- (c) goods and services listed in the basic registration are also listed in the international registration in respect of Belize; and
- (d) the extension of that international registration to Belize took effect after the date of registration of the mark in Belize;

the holder of the international registration may request the Registrar to take note of that international registration in the Register of Marks.

(2) A request filed with the Registrar in accordance with sub-regulation (1) shall be made in writing and may be subject to the payment of a prescribed fee.

(3) The replacement of the basic registration by an international registration is—

- (a) deemed to be automatic when the conditions under Article 4bis(1) of the Madrid Protocol are met;
- (b) not dependent on any action by the holder or the Registrar;
- (c) effective on the date of the international registration or the subsequent designation.

(4) The Registrar may examine the request in sub-regulation (1) for compliance with the conditions under Article 4bis(1) of the Protocol.

(5) Where the Registrar has taken note of an international registration in accordance with sub-regulation (1) (a), the Registrar shall notify the International Bureau and shall indicate the following—

- (a) the number of the international registration in question;
- (b) where only some of the goods and services listed in the international registration are concerned, those goods and services;
- (c) the filing date and number of the application for registration of the mark in Belize;
- (d) the registration date and number of the registration in Belize;

- (e) the priority date, if any, of the registration in Belize; and
- (f) information relating to other rights acquired by virtue of the registration in Belize.

(6) A national registration shall not be cancelled or otherwise affected by the fact that they are deemed to be replaced by an international registration or that the Registrar has taken note in its Register of the international registration.

(7) Where all the goods and services listed in the international registration are not listed in the national registration(s), the scope of replacement shall be limited to only those goods and services listed in the international registration that are also listed in the national registration(s).

Transformation.

24.—(1) Where an international registration designating Belize is cancelled at the request of the Office of origin, in accordance with Article 6(4) of the Madrid Protocol, for all or some of the goods and services listed in the international registration, an application resulting from transformation may be made to the Registrar, within three months from the date on which the international registration was cancelled, by the person who was the holder of the international registration at the date of its cancellation, for registration of the same trade mark, for goods and services covered by the list of goods and services contained in the international registration.

(2) Subject to sub-regulations (2) and (3), the provisions applicable to a trade mark application filed directly with the Registrar shall apply *mutatis mutandis* to an application resulting from transformation.

(3) An application resulting from transformation shall be made on the form prescribed in the Schedule and shall include the following—

- (a) a statement that the application is made by way of transformation,
 - (ii) the international registration number of the international registration which has been cancelled,
 - (iii) the date of the said international registration or the date of the subsequent designation, as appropriate,
 - (iv) the date on which the cancellation of the international registration was recorded,
 - (v) where applicable, the date of any priority claimed in the international application and recorded in the International Register.

(4) An application resulting from transformation may be subject to the payment of any prescribed fees.

(5) Where a mark that is the subject of an international registration has become protected in Belize on or before the date on which the international registration was cancelled, provided that all the requirements relating to an application resulting from transformation have been met, that mark shall be registered by the Registrar.

(6) The date of registration of a mark under sub-regulation (5) shall be the date of the cancelled international registration or the date of the subsequent designation, as appropriate, and that registration shall enjoy any priority enjoyed by the cancelled international registration.

(7) Where a mark that is the subject of an international registration has not yet become protected in Belize on or before the date on which the international registration was

cancelled, any procedures or measures already undertaken on or before the date on which an application resulting from transformation is filed for the purpose of the international registration, shall be considered as having been undertaken for the purposes of the application resulting from transformation.

(8) The filing date of the application resulting from transformation under sub-regulation (7) shall be the date of the international registration or the date of the subsequent designation, as appropriate.

Renewal of international registrations designating Belize.

25. International registrations which have been renewed in respect of Belize as a designated Contracting Party in accordance with Article 7 of the Madrid Protocol, shall continue to have effect in Belize.

Recordings in the International Register.

26.—(1) Any recording made in the International Register concerning an international registration, to the extent that it applies to Belize as a designated Contracting Party, shall have the same effect as if it had been recorded by the Registrar in the Register of Trade Marks.

(2) Where the Registrar considers that the recording referred to in sub-regulation (1) has no effect in Belize, the Registrar, where provided for in the Regulations under the Protocol, shall send a communication to the International Bureau to this effect, in accordance with regulations 27 and 28.

Declaration that a change in ownership in an international registration has no effect in Belize.

27.—(1) Where Belize is notified by the International Bureau of a change in ownership of an international registration affecting Belize, the Registrar may declare that the change in ownership has no effect in Belize. The effect of such a declaration shall be that, with respect to Belize as the designated Contracting Party, the international registration concerned shall remain in the name of the transferor.

(2) A declaration under in sub-regulation (1) shall indicate—

- (a) the reasons for which the change in ownership has no effect;
- (b) the corresponding essential provisions of the Act; and
- (c) whether such declaration may be subject to review or appeal.

(3) A declaration under sub-regulation (1) shall be sent to the International Bureau before the expiry of 18 months from the date on which the notification was sent to the Belize.

(4) The holder of the international registration may request a review of the declaration by the Registrar within three months from the date of the notification sent by the International Bureau.

(5) Where the holder has no address for service in Belize, the request for review shall be submitted in writing, through a duly appointed agent, in accordance with section 73 of the Act, together with a power of attorney.

(6) Any final decision relating to a declaration made in accordance with sub-regulation (4) shall be notified to the International Bureau.

28.—(1) Where Belize is notified by the International Bureau of a limitation of the list of goods and services in an international registration affecting Belize, the Registrar may declare that the limitation has no effect in Belize.

(2) The effect of a declaration under sub-regulation (1) shall be that, with respect to Belize as the designated Contracting Party, the limitation shall not apply to the goods and services affected by the declaration.

(3) A declaration under sub-regulation (1) shall indicate—

Declaration that a limitation of goods and services in an international registration has no effect in Belize.

- (a) the reasons for which the limitation has no effect;
- (b) where the declaration does not affect all the goods and services to which the limitation relates, those which are affected by the declaration or those which are not affected by the declaration;
- (c) the corresponding provisions of the Act, and
- (d) whether such declaration may be subject to review or appeal.

(3) A declaration under in sub-regulation (1) shall be sent to the International Bureau before the expiry of 18 months from the date on which the notification was sent to Belize.

(4) The holder of the international registration may request a review of the declaration by the Registrar within three months from the date of the notification sent by the International Bureau.

(5) Where the holder has no address for service in Belize, the request for review shall be submitted in writing, through a duly appointed agent, in accordance with section 73 of the Act, together with a power of attorney.

(6) Any final decision relating to a declaration made in accordance with sub-regulation (4) shall be notified to the International Bureau.

Licences.

29. Sections 41 to 44 of the Act apply, *mutatis mutandis*, for recording of a licence in an international registration with effect for Belize.

Corrections
in the
International
Register.

30.—(1) Upon receiving a notification from the International Bureau of a correction of an international registration where Belize is designated, the Registrar may declare in a

notification of provisional refusal to the International Bureau that it considers that protection cannot, or can no longer, be granted to the international registration as corrected.

(2) The Registrar shall send a declaration under sub-regulation (1) within 18 months from the date of sending the correction to Belize by the International Bureau.

31. These Regulations shall come into force on the 24th day of February, 2023.

Commencement.

MADE by the Minister responsible for intellectual property this 27th day of January, 2023.



**(MAGALI MARIN YOUNG (SC))
ATTORNEY GENERAL**

Minister responsible for intellectual property

SCHEDULE
[reg. 24(3)]

**APPLICATION TO TRANSFORM AN INTERNATIONAL
REGISTRATION INTO A NATIONAL APPLICATION**

International Registration Number:

Date of International Registration (or date of subsequent designation):

Date of Cancellation of International Registration:

Application is hereby made for the transformation of registration of the above mark in respect of **International Class [insert # here]** for; in the name of.....whose trade or business address is.....who claim(s) to be the proprietor(s) thereof.

Use Statement:

The mark is being used or;

The mark is being used with the applicant's consent, in relation to those goods or services or;

The applicant has a bona fide intention to use the mark.

Disclaimer:

The applicant disclaims the exclusive right to the use of the word(s)..... and/or depiction(s).....

Color Claim:

The applicant claims the color(s)

Priority Claim

The priority claim is on the basis of an application filed on (eg. 01/01/2019) application number (eg.123456) in (eg. Jamaica). Priority was claimed in the international application and recorded in the International Register.

Translation:

The applicant claims that the English translation of the word(s)

Ph #:

Email address:

Dated the day of, 20

To the Registrar
Intellectual Property Office
BELIZE.