



## **Ministerial Statement**

By

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Minister for Tourism and the Cabinet Office

### **Intellectual Property Updated Legislative Framework**

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**Mr. Speaker,**

Today I would like to provide this Honourable House with an update on the progress we are making towards updating the Intellectual Property legislation for Bermuda. Members of this Honourable House will be aware that modernization of the legislative framework governing intellectual property rights was featured in the 2022 Throne Speech.

**Mr. Speaker,**

This Government has embarked on the enormous undertaking to update the country's legislation governing trademarks, patents, registered designs and copyrights to be more fully aligned with global standards and best practices. This initiative will be achieved through the collaborative efforts of the Ministry for Tourism and the Cabinet Office, Ministry of Home Affairs (Department of Registry General) and the Ministry of Economy and Labour (through the Economic Development Department).

**Mr. Speaker,**

Industry practitioners have for years petitioned for an updated IP legislative framework, particularly following the advent of fintech legislation and economic substance requirements in Bermuda. In response to more recent requests, an Intellectual Property Taskforce was

empaneled by this Government, and a report of recommended actions was produced which outlined the need to update the suite of intellectual property legislation.

**Mr. Speaker,**

Consistent with the recommendations of the Taskforce, overhauls of both the Trade Marks Act 1974 and the Patents and Designs Act 1930 are currently in progress. Updates to the Copyrights and Designs Act 2004 will also be completed. The updated suite of laws and regulations will generally be modelled after the United Kingdom's legislation to ensure that the framework is appropriately positioned to meet international standards.

**Mr. Speaker,**

In connection with this initiative, the Bermuda Government intends to submit to the United Kingdom (UK) Government formal requests for extension of several treaties governing the protection of IP rights. The project team is coordinating with the UK Intellectual Property Office (UK IPO) on this initiative and will be submitting copies of the draft legislation to the UK IPO for review and comment as appropriate.

**Mr. Speaker,**

Modernization of the trade marks legislation is entering the final stages of the drafting process. It is anticipated that a new principal Act and regulations will, in due course, be tabled before this Honourable House to replace the existing legislation governing trade marks in Bermuda. The draft legislation has been reviewed by the necessary Government departments and will soon be reviewed by industry practitioners prior to a final consultative review by the UK IPO.

**Mr. Speaker,**

The proposed new trade marks legislation will:

- (1) update a regime that was originally enacted nearly 50 years ago, to one that reflects an updated approach to drafting, modern processes and industry best practices;
- (2) transition Bermuda's trade mark registration and renewal periods to 10 year terms, which is consistent with standard global practice;
- (3) provide more clarity and legal certainty as to the rights and obligations of persons with an interest in registered trade marks; and
- (4) position Bermuda to be eligible for participation in international treaties and to become a jurisdiction through which international registrations can be effected.

Likewise, **Mr. Speaker**, using the current UK legislation as a model for Bermuda's updated framework will enable more effective use of UK case law and practical guidance materials to assist in the administration of the trade marks regime.

**Mr. Speaker,**

An overhaul of the legislation governing patents and registered designs is also long overdue since the current legislation was enacted almost a century ago. While that legislation has been updated at various points throughout the years, no substantive amendments have been made to the primary Act for nearly 50 years.

Work on modernizing the patent legislation has already begun; and that project will follow a similar course as that taken for the trade marks legislation.

However, **Mr. Speaker**, consistent with the current approach in the UK and many other jurisdictions, it is anticipated that the new framework governing patents and registered designs will be separated into 2 primary Acts instead of the current consolidated approach. This will enable a more nuanced approach for governing rights associated with patents and registered designs, and will provide a better foundation for alignment with global best practices and international treaty requirements.

Finally, **Mr. Speaker**, updates will be made to the copyright legislation to enable voluntary registration of copyright ownership. Although the Copyrights and Designs Act 2004 was enacted more recently than other IP legislation, updates are needed to enhance the regime to account for modernized practices.

While copyright protection arises without the need for registration, allowing persons to voluntarily register their copyright ownership will create a public record of the copyright claim, thereby putting others on notice of it. In jurisdictions such as the United States, copyright registration is a prerequisite to filing a claim of copyright infringement.

**Mr. Speaker,**

The additional transparency resulting from public registration of copyright ownership will not only facilitate greater protection against infringement, but it can also facilitate commercial transactions by making it easier for third parties who wish to license a work to reach the appropriate person. Likewise, the Government will benefit from additional revenues generated by voluntary registration and ancillary services.

**Mr. Speaker,**

At the completion of these legislative updates, Bermuda will be well placed to attract more companies to register their intellectual property rights here. Increased registrations from global market participants, increased government revenues, updated and more efficient administrative practices and processes, and access to well-established case law in the United Kingdom are all benefits that are anticipated to result from this modernization initiative.

**Mr. Speaker,**

Bermuda must keep pace with jurisdictional competitors, global market demands and industry best practices. As we are all well aware, innovation and the protection of intellectual property are vital to the growth and sustainability of any modern society. Updating the legislation will significantly enhance our intellectual property framework, thereby enabling it to serve as an attractive and useful foundation for the protection of intellectual property.

**Thank you, Mr. Speaker.**