

## ***THE JAMAICAN BAR ASSOCIATION***

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2<sup>nd</sup> December, 2013

By Fax 922-6223 and By Bearer.

The Gleaner Company Limited  
7 North Street,  
Kingston

**Attention:- Mr. Garfield Grandison – Editor-in-Chief**

Dear Sirs,

**Re:- Comments attributed to Senator Norman Grant as published by the Gleaner Online on November, 23, 2013.**

The comments attributed to Senator Norman Grant as reported in the Gleaner Online on November 23, 2013 captioned “*JAS President blasts bar association for opposing anti-piracy efforts*” are most unfortunate.

We believe that the Senator is genuinely misinformed about the position of the Jamaican Bar Association (JBA). The JBA has not, as has been published, “*been thwarting Jamaica’s efforts to become a signatory to the Madrid Protocol*” or opposing the move “*for selfish commercial purposes*” as the report alleges.

The JBA has been thorough in its ongoing review of the Madrid Protocol and candid with the Government and stakeholders in its analysis on both the benefits and shortfalls of the Protocol. We have also made several recommendations on how Jamaica could best militate against the possible negative impact to ensure realization of the benefits in the national context.

The Senator’s comments reflect common misperceptions about the Madrid Protocol system which have fed into the faulty expectation that it is a panacea for protecting ‘Brand Jamaica’ and tackling infringement/piracy.

It is not a fact that “*if Jamaica becomes a signatory to the Madrid Protocol, it would automatically protect Brand Jamaica in all 87 jurisdictions from piracy*”. The Bar also rejects any blame for “*the unabated piracy of Jamaican products on the international market*”, there being no credible basis for this statement. ...2/

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It may be helpful to re-iterate that the Protocol does not provide a single trademark registration which is enforceable in multiple jurisdictions. There is no central facility for the monitoring or enforcement of the trade marks which are acquired through the Protocol. Hence trade mark proprietors acquiring Madrid registrations will still have to expend the funds to monitor and enforce their trade marks in the countries of registration, just as they have to do under the prevailing system. **Lack of decisive enforcement strategies and action by trademark owners will facilitate piracy.**

The JBA has been at the fore-front of advocating for legislative and administrative readiness prior to accession. The need for this was fully appreciated by the Minister of Industry Investment and Commerce leading to the formation of Working Group chaired by the Jamaica Intellectual Property Office (JIPO) with the primary mandate of reviewing the Trade Marks Act and Rules and recommending amendments necessary for implementation of the Protocol.

The JBA's Intellectual Property Committee has been for the past three (3) months working assiduously along with JIPO and other relevant Government Departments on this Working Group and remains committed to completing the tasks.

We are confident that JIPO would agree that the Bar's involvement has only served to advance the process towards accession and deepen the understanding of the Madrid Protocol system and the appreciation for the national imperatives for its proper implementation.

We trust the above provides clarification as regards our position and commitments.

Yours sincerely,  
**JAMAICAN BAR ASSOCIATION**

Per:- \_\_\_\_\_  
**IAN WILKINSON Q.C - PRESIDENT**