



### “Of Course We Own All Our Trade Marks, Company Names & Domains!”

– Don't be so sure

Increasingly often, we are being called-on by our clients to deal with nightmare situations. Recent examples include a case where it was discovered that an unrelated person held registered trade marks that are confusingly similar to our client's company name; in another case, a foreign company (and former business partner) set up a website displaying our client's trade marks and a name virtually identical to our client.

In a particularly unsavoury case, a client's world renown brand and company name were defamed on a series of web sites, not all of which were hosted in South Africa.

In another nasty case, CIPC permitted a company name to be registered that is glaringly confusing to our client's world-famous trade marks.

In each case, a problem originated from the fact that the Trade Marks Office, the Companies Office and the Domain Registry Offices all operate independently of each other, and no cross-checks are conducted. As a result, some of these headaches arise innocently. But they don't self-correct, and they

will certainly need to be corrected – and fast – as soon as they are uncovered,

The good news is: it is certainly possible to fix these situations, if you know where to look.

The bad news is: it can be an outrageously lengthy and costly experience. As with most things in life, prevention of an ill is considerably better than having to cure it.

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#### Complimentary Basic Check-up

Because the problem is becoming increasingly more prolific, we now offer a basic check-up for our existing clients, on request, and at no charge. In it, we conduct an initial, high-level assessment to see whether any glaringly contentious obstacles lie in your path. If there are any issues, we'll advise you on the best way to resolve these.

If, for no other reason than securing peace-of-mind, if you haven't had an “IP checkup” conducted on the state of your own (business) health, we invite you to take us up on the offer. We guarantee: you'll thank us for it!

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## Conspicuously In The Crosshairs



It's been a turbulent year for the franchise industry. 2016 commenced with a very clear statement of intent from SARS, in the form of a Draft Guide. In it, SARS has pulled no punches in indicating that both franchisors and franchisees can expect to come under increased scrutiny and, in all likelihood, a higher tax bill. The Margo® team has been engaged to review aspects of the Draft Guide with SARS Policy Team. To date, no finalised Guide has followed yet, but its publication is a *fait accompli*. The message is clear: taxpayers are well-advised to prepare for the Guide's implementation: by the time it issues, it will surely be too late to avoid the consequences!

No sooner that the SARS Draft Guide was published, the National Consumer Commission issued a Draft Code For The Franchise Industry. It's a weighty document which, at its simplest level, proposes a new dispute resolution mechanism for franchisors and franchisees. Certainly, there's nothing offensive in that. The trouble, however, is that there already

exists a comparable Industry Ombudsman in the sector (the CGASI), with its own set of rules. In addition, the Franchise Association of SA ("FASA") already has its own Code Of Ethics & Business Practices – and all three sets of Rules are mutually inconsistent! The Margo® team has been engaged to make submissions to the Commission on this Draft Guide, too. And, in similar fashion to the SARS Draft Guide, a finalised policy document is still awaited.



## R&D Tax Incentive Languishing in the doldrums

In November 2015, a "Task Team" was appointed to advise the Ministry Of Science & Technology of how to fix the broken incentive. The DST decreed that "it was not necessary" to have any patent attorneys or attorneys participate in the Task Team.

In June 2016, the Task Team published its final report. Unfortunately (some might argue: inevitably) that report contains a number of serious difficulties in its treatment of legal issues and, in particular, the treatment of intellectual property. Regrettably,

matters are no better now than they were prior to November 2015.

Taxpayers – and particularly those in the ICT Industry – are cautioned strongly against placing reliance on the incentive which, for all practical purposes, remains unclaimable.

## The Lighter Side

Who says that patent attorneys  
have no sense of humour?

Bill Watterson, author of the famous comic strip *Calvin & Hobbes* is the son of a patent attorney. Can you tell?



## Long-Awaited gTLDs Now Available

### Unprecedented demand

Over the course of the past few years, hundreds of top level domains have been introduced.

Perhaps none have piqued as much interest as much as the latest series of three: **.store**, **.shop** and **.shopping**. Groups of companies, too, will be pleased – finally – to see the launch of the **.group** domain, and we urge

our clients to register their domains as soon as possible to avoid disappointment. The current list of the gTLDs spurring greatest interest are as follows:

TLD	SUNRISE PERIOD	LANDRUSH PERIOD	GENERAL AVAILABILITY
<b>-shopping</b>	19 July - 17 Sept '16	21 - 28 Sept '16	28 September '16
<b>-shop</b>	30 June - 29 Aug '16	01 - 26 Sept '16	26 September '16
<b>-insurance</b>	–	–	Available Now
<b>-promo</b>	–	–	Available Now
<b>-ltd</b>	–	–	Available Now
<b>-store</b>	–	–	Available Now
<b>-group</b>	–	–	Available Now

### Social Responsibility

Two charities, in particular, are very close to our heart. Please take a moment to consider these very worthy causes



#### Animals in Distress

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#### SPCA - Sandton

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