



SMIT & VAN WYK COMPANY PROFILE

1. COMPANY HISTORY AND EXPERIENCE

Smit & Van Wyk is a specialist Intellectual Property (IP) law firm that was established on 1 August 2005. The firm deals exclusively with IP law in South Africa and across Africa as a whole. Our qualified attorneys have the knowledge, experience and resources to give expert legal advice regarding IP portfolio's and can assist with the filing, registration, prosecution and enforcement thereof. Our fields of practice encompass all aspects relating to:

- patents;
- trade marks;
- registered designs;
- copyright;
- franchising;
- trade secrets;
- litigation;
- contractual agreements relating to IP;
- non-statutory IP protection;
- commercial rights attached to each of these forms of IP;
- consulting services;
- IP auditing services;
- IP management services.

We file patent, trade mark, and registered design applications for our South African clients into foreign markets, while also assisting our foreign clients who wish to file in South Africa or the rest of Africa.

The attorneys at Smit & Van Wyk are further aided by a dedicated and efficient support team as well as state-of-the-art software that ensures a high level of professionalism and an excellent level of service. We also have an outstanding foreign department that assists with patent, trade mark, and registered design cases that cross borders.

Our focus at Smit & Van Wyk is to provide an efficient and superior level of service to all of our clients. We understand that the needs of each client are different and therefore offer a tailored service to meet each of our client's needs. We are a dynamic firm that is growing at an exponential rate and we take pride in our clients, the level of service we offer as well as our employees.

Smit & Van Wyk Inc.

2. SMIT & VAN WYK'S OFFER

2.1 Patents and Registered Designs

Our patent department specialises in the identification, protection, prosecution and enforcement of patents and designs in South Africa and abroad. Our experts litigate on these matters, and further, advise on IP valuation, licencing and related commercialisation aspects. With a passion for development in Africa, our patent department has built a trusted network of African agents over the past decade which allows us to extend these service offerings across the African continent.

Patenting is essentially a two-step process, with the two steps being spaced 12 months apart. The first step is to file a provisional patent application for an invention. This is done so that you have the earliest possible date from which to claim rights to your intellectual creation. The second step is to file a complete patent application within 12 months of filing the provisional application. A complete application will claim a first (or "priority") date from the provisional application. In other words, the rights being protected will date back to the filing date of the provisional application.

Complete applications are more expensive to file than provisional applications and it is not possible to add additional matter to a complete application once it has been filed. The reason for the two-step approach is therefore to allow time to (cost-effectively) see whether there is a market for the invention without losing any rights, as well as to allow time to improve the invention into its "perfected" form. Filing a provisional patent application is thus a sensible, cost-effective way of testing the invention.

It is important to note that a provisional patent application does not provide an enforceable right. A provisional application is merely a tool which allows the invention to be tested in the market without destroying the novelty of the invention. An enforceable right is only implemented once a complete patent application is filed for the final form of the invention and once it has been granted by the Patent Office.

Our patent department is able to assist and guide clients through the above mentioned process and has a broad range of specialists, in fields ranging from mechanical, computer and electronic engineering, to life sciences, chemistry and pharmaceuticals. Our patent attorneys are qualified as Attorneys of the High Court and as registered patent attorneys, having both engineering or science degrees, together with law degrees. The prosecution section of our patent department is managed by undoubtedly the most experienced patent portfolio manager in the country.

The benefit of building a professional relationship with our patent department is the personalised service we offer. Our clients are revered, whether corporate entities or "the man on the street", and this is shown via our quick turnaround times, response rate and continued commitment to the success of our clients. Modern computer systems also allow our patent department to benefit from the efficiency of a paperless environment.

The African continent presents unique challenges to businesses, but we believe our success over the last decade, together with our professional expertise, sets us in good stead for advising clients in navigating IP on their pathway to success. A summary of the services we provide, along with the time frame linked to each service can be found below:



Patents

Service	Timeframe
Answering standard patent enquiry	Within 4 working hours
Patent identification, identification of jurisdictions for international filings	Within 8 working hours
Patent search	Within 3 working days
Drafting of patent specification	Within 5-10 working days (depending on available information)
Application for filing (emanating from abroad)	Within 6 working hours
Application for filing (local, after approval)	Within 4 working hours after receiving approval
Formal Examination and Issuance of Acceptance notice by CIPC	9-12 months from filing (reported by SVW within 8 working hours)
Advertisement and grant by CIPC	3 months from date of acceptance (reported by SVW within 8 working hours)
Receiving Certificate of Grant from CIPC	24 months from date of grant (reported by SVW within 8 working hours)
RSA Renewal Process	First renewal due 3 years from South African Filing date or PCT International Filing date (whichever is applicable).
Renewal payment by SVW	Within 4 working hours after receiving renewal instructions

Registered Designs

Service	Timeframe
Answering standard design enquiry	Within 4 working hours
Design identification, identification of jurisdictions and class	Within 8 working hours
Foreign Design search	Within 3 working days
Preparing drawings & brief statement	Within 4 working days (depending on available information)
Application for filing (emanating from abroad)	Within 6 working hours
Application for filing (local)	Within 4 working hours after receiving approval
Formal Examination and Issuance of notice of registration by CIPC	9-12 months from filing (reported by SVW within 8 working hours)
Advertisement and registration by CIPC	3 months from date of acceptance (reported by SVW within 8 working hours)
Receiving Design Registration Certificate by CIPC	6-9 months from date of advertisement (reported by SVW within 8 working hours)
RSA Renewal process	First renewal due 3 years from effective date (i.e. South African Filing date; Priority Date or Release Date, whichever is the earliest)
Renewal payment by SVW	Within 4 working hours after receiving renewal instructions

2.2 Trade Marks and Copyright

Our trade mark department is made up of a team of skilled and qualified attorneys and paralegals who work closely with our clients to build interpersonal relationships and to structure the best bespoke trade mark filing programs suited to the client's specific needs and requirements.

As a first step, we provide a cost free service to review a client's proposed trade mark and will then give advice on the chances of success for registering a trade mark based on distinctiveness and registrability. Our advice on the style of trade mark, colour, goods and services and the bespoke specification of goods or services are then communicated to the client.

A trade mark availability search can then be conducted on the Trade Marks Register prior to filing trade mark applications. The purpose of a trade mark search is to check if there are any marks on the Register that may block you from using or registering your proposed trade mark. For this reason, we always recommend that a trade mark search be conducted prior to filing as the search will give insight into whether or not there are any prior marks that may conflict or block a trade mark application. If a potential problem is found, we are in a position to advise clients on the possible ways to resolve the problem at an early stage before any costs are incurred on filing the application or on marketing of their goods or services.

Once the trade mark has been filed, regular reports and updates are sent to clients to keep them informed on the progress of the trade mark application. We also fully prosecute trade marks from filing through to examination, acceptance, arrange for advertisement in the Patent and Trade Mark Journal and assist in finalising the registration.

Our qualified team will guide client's through the compulsory examination stage. We offer expert advice on how to proceed with the Registrar's examination actions by conducting in-depth research and utilizing legislation and case law to represent the best strategy for client in order to secure the broadest possible protection for their trade marks.

Should any obstacles arise, either from the Registrar of Trade Marks or third party oppositions, our skilled team is in a position to overcome these obstacles quickly and cost-effectively.

Once a trade mark is registered, renewal reminders are sent to clients six-months prior to the renewal due date, at which stage we attend to the renewal of trade marks. A summary of the services we provide, along with the timeframe linked to each service can be found below:

Service	Timeframe
Trade mark identification, identification of jurisdictions & identification of classes	Within 24 hours
Trade mark search	5-7 working days
Application for registration	Within 24 hours
Examination	6-9 months from filing (reported by SVW within 8 working hours)
Advertisement	3-4 months from examination (reported by SVW within 8 working hours)
Opposition period	3 months from advertisement
Registration	6 months from the end of the opposition period (reported by SVW within 8 working hours)
Renewal	<p>Within 4 working hours after receiving renewal instructions.</p> <p>Validity: 10 years from the date of filing of the application and renewable for further periods of 10 years thereafter.</p>

Smit & Van Wyk can also assist with enforcing trade mark rights. Accordingly, if you are aware of any entity (person or company) using a similar company name, domain name, product packaging or a similar trade mark to your trade mark we can assist in resolving the matter.

Copyright in South Africa, like in most other countries, differs from other forms of IP in that it is not a right that needs to be registered (except in the USA). The only exception in South African law is cinematographic films, which can be registered. Unlike patents, trade marks or registered designs, copyright usually vests in the author of a work once the work is created and put into material format. Smit & Van Wyk can also assist with the enforcement of copyright. Should it become clear that someone has copied your work, we can advise on the best way to proceed.

The skilled Attorney's at Smit & Van Wyk can also assist in drafting IP related commercial agreements, such as assignment agreements to transfer IP, licencing agreements and non-disclosure agreements.

Smit & Van Wyk also offers an IP audit service. An IP Audit is defined as a systematic review of the IP assets owned, used or acquired by a business. Its purpose is to uncover under-utilized IP assets, to identify any threats to a company's bottom line, and to enable business planners to devise informed strategies that will maintain and improve the company's market position. IP audits are conducted once a year to: help assess, preserve, and enhance our clients IP; correct defects in IP rights; put unused IP to work; identify risks regarding infringement on another's IP; and implement best practices for IP asset management.

2.3 Franchising

Our franchise department advises both franchisors and franchisees regarding legal aspects pertaining to franchising. The franchise relationship between a franchisor and franchisee will primarily be controlled and governed by the franchise agreement. We assist franchisors to develop, draft and complete all required legal documentation to properly market and sell franchise businesses, all of which to be in line with the required franchise legislation and regulations. It is of utmost importance for a franchisor to ensure that all of its IP rights regarding the franchise business system, is adequately identified and protected.

We provide advice and assistance to franchisees entering into new franchise agreements in order to enable a prospective franchisee to identify the risks and obligations regarding the franchise opportunity.

Our franchise department also assists franchisors and franchisees with general aspects regarding the use of a franchise business system's intellectual property and/or development, regulation and enforcement of such rights. We act on behalf of franchisors and franchisees in franchise disputes and franchise litigation.

3. SMIT & VAN WYK TEAM

Smit & Van Wyk has a well-rounded team that is able to provide each of the aspects described above. Below is a summary of the team and their capabilities.

Wessel van Wyk

Executive Director and Patent Attorney

Wessel is a qualified electronic engineer, an Attorney of the High Court, and a registered patent attorney. His 18+ experience in patents and IP law is complimented by more than 10 years of industry experience in the aerospace industry, both in a technical and a managerial capacity. He specialises in all matters relating to protection, enforcement, valuation and exploitation of intellectual property. Wessel also advises major research and academic institutions on their IP policies.

Chantal Hoffelner

Director and Patent Attorney

Chantal Hoffelner is an admitted patent attorney at Smit & van Wyk, specialising in biotechnology, medical, pharmaceutical and life sciences. She has been working in IP for 11+ years and before joining Smit & Van Wyk, she worked as a researcher in the Microbial, Biochemical and Food Biotechnology Department at the University of the Free State.

Esmari Jonker

Trade Mark and Franchising Attorney

Esmari is a dynamic IP attorney with 19+ years' experience in the fields of trade marks, copyright, and franchising. She acts on behalf of local and international clients in the franchise industry, and advises both franchisees and franchisors with regard to legal matters. As a leading attorney in the field of franchising, Esmari is often invited by industry and the media to give presentations on franchising, branding and copyright

issues. She is the Smit & Van Wyk, Inc. representative at FASA, and also works in association with The Franchise Firm to advise corporate clients on franchise development and franchise management.

Rogan Bruce

Trade Mark Attorney

Rogan is an admitted Attorney of the High Court and specialises in trade marks and copyright at Smit & Van Wyk. Rogan has experience in both foreign and local trade mark applications, searches, portfolio management, oppositions, amendments, assignments, renewals and restorations. Rogan also specialises in High Court litigation matters including the cancellation of trade marks, trade mark infringement, passing off and unlawful competition. Rogan is also able to give advice in terms of domain names (instituting and defending domain name disputes) as well as copyright agreements.

Yolandi Coetzee

Patent Attorney

Yolandi is a qualified microbiologist, Attorney of the High Court and a registered patent attorney at Smit & Van Wyk. Before joining Smit & Van Wyk, she worked as a microbiologist and laboratory manager for a company manufacturing chemicals used in the water treatment industry. In pursuing her career in intellectual property, she later worked for other local intellectual property firms and more recently an international intellectual property firm handling patent, design and trade mark matters related to South Africa. She specialises in patent specification drafting, patent searches and legal opinions.

Niel Meiring

Attorney

Niel is an Attorney and qualified Civil Engineer who joined the firm in February 2020. He has a background in structural engineering and general attorney practice. He has also completed his LLB degree and has been admitted as an Attorney of the High Court of South Africa. Niel is currently working towards completing his Patent Board Examinations.

Corrie Hall

Patent Portfolio Manager

Corrie is our formalities and foreign portfolio manager. She has more than three decades of experience in patent administration and is one of the most valuable members of our team. She is a first point of contact for most foreign clients and ensures that our processes are streamlined and dependable. Corrie has experience in all aspects of IP administration and follows a meticulous approach in each case we handle.

Cherizé de Lange

Trade Mark Portfolio Manager

Cherizé is a senior paralegal and our Trade Mark Portfolio Manager who joined the firm in 2019. She obtained her Diploma in Law in 2010 and ranked among the top students in 2017 when completing her first year South African Institute of Intellectual Property Law Exams. Cherizé specializes in trade marks,



copyright, client audit reports and managing the trade mark practice. She is currently completing her Chartered Company Secretary degree.

Kimberley Rose Conroy
Patent Candidate Attorney

Kimberley Conroy is a South African candidate patent attorney specialising in the drafting and prosecution of patents and designs locally and abroad. She focuses on patents in the field of life sciences, specifically in biochemistry, genetics and molecular biology, and prides herself in keeping up to date with the developments in these fields. Kimberley has completed all Patent Examination Board examinations in South Africa and is currently completing a law degree. She has a strong academic background in the biological sciences, specifically genetics and biochemistry, and keeps up to date with the developments in this field. Before joining Smit & Van Wyk, Inc., Kimberley worked in the Molecular Virology and Clinical Biochemistry laboratory at the University of the Free State.

Marthinus Prinsloo
Trade Mark Candidate Attorney

Marthinus is a candidate trade mark attorney who joined the firm in 2018. He obtained his LLB degree in 2017 from the University of the Free State and completed his LLM with specialisation in IP Law at Stellenbosch University. Marthinus was also a participant in the Willem C. Vis International Commercial Arbitration Moot Competition in 2017.

Sharon Osborne
Trade Mark Candidate Attorney

Sharon is a candidate trade mark attorney who joined the firm in 2020. She has obtained her LLB degree and is busy completing her LLM with specialisation in IP Law at the University of Pretoria.

4. MARKET RECOGNITION

- Smit & Van Wyk has achieved the following accolades in 2020:
- Chambers Global – Ranked for Intellectual Property services in South Africa 2020.
- IAM Patent 1000: The World's Leading Patent Professionals – Ranked for patent services in South Africa 2020.
- IAM Patent 1000: The World's Leading Patent Professionals – Directors, Wessel van Wyk and Chantal Hoffelner, listed individuals for patent services in South Africa 2020.
- Managing Intellectual Property (MIP) – ranked under the trademark and patent category for South Africa 2020.
- Managing Intellectual Property (MIP) – Wessel van Wyk, director at Smit & Van Wyk listed as an IP Star.
- The Patent Lawyer Magazine – Listed as one of the 10 “Most Well-Respected Law Firms” in South Africa 2020.



- The Trademark Lawyer Magazine – Listed as one of the 10 “Most Well-Respected Law Firms” in South Africa 2020.
- Won the Lexology Client Choice Award 2020 – Franchise Lawyer in South Africa. The Lexology Client Choice recognises those individuals around the world that stand apart for the excellent client care they provide and the quality of their service. Lawyers can be nominated only by corporate counsel.
- Listed by Who’s Who Legal in the Franchise Law category for 2018, 2019 and 2020.

5. AFFILIATIONS

Smit & Van Wyk is a member of the following global Intellectual Property associations:

- International Trade Mark Association (INTA);
- International Association for the Protection of Intellectual Property (AIPPI);
- American Intellectual Property Law Association (AIPLA);
- Asian Patent Attorney Association (APPA);
- Licensing Executives Society (LES);
- South African Institute of Intellectual Property Law (SAIIPL);
- Franchise Association of South Africa (FASA);
- Southern African Research and Innovation Management Association (SARIMA).

6. SOFTWARE AND DATA PROTECTION

Our firm employs state of the art computer systems to provide efficient paperless services in an environmentally conscious manner.

Smit & Van Wyk collects data from South African and foreign clients for the purpose of filing-, prosecuting- and maintaining Patent-, Trade Mark- and Registered Design applications in South Africa and in foreign jurisdictions.

All client data that is collected is used for the sole purpose of the above and to advise clients on any new developments that might impact their legal rights.

All client data is stored on cloud servers with service providers that comply with the provisions of section 72 of the Protection of Personal Information Act, 2013.

7. BENEFITS OF WORKING WITH SMIT & VAN WYK

- The personnel at Smit & Van Wyk are assigned specific tasks in relation to the execution of client's instructions. To this end client receive a personalised service from all Smit & Van Wyk employees.
- Our cost structure is based on market related trends but we aim to reduce the cost to clients in order to provide a more cost efficient legal service in the IP field in Africa.
- Our firm employs state of the art computer systems to provide efficient paperless services in an environmentally conscious manner.



- Smit & Van Wyk supports small- and upcoming businesses by providing the most cost efficient IP legal services in the country at the best possible level of service
- The firm is conscious of past discrimination and therefore complies with all BBBEE legislation as it applies to the firm.
- South Africa has a well-developed infrastructure compared to the rest of Africa. In terms of communication, Smit & Van Wyk is therefore always accessible to foreign clients.
- South Africa is seen by most foreign agents as the gateway into Africa, due to local knowledge and accessibility to clients.
- The average economic growth rate in Africa is around 3.4%-4.1%, which makes Africa an investment destination for foreign investors.
- Based on our 2020 filing stats thus far, we are expecting an increase of 5% for the year in patent, trade mark and design applications.
- Prosecution of trade marks and patents in Africa is normally successful if pre-existing rights exist in foreign jurisdictions (and if no conflicting marks were filed in the relevant territory).
- Smit & Van Wyk has an extensive network of reliable agents in Africa which helps to avoid IP rights difficulties for our foreign clients.
- The foreign incoming work at Smit & Van Wyk has grown over the past five years to more than 50% of our practice in 2020 because of our efforts to provide the highest level of service to clients.
- Our internal practice management systems are sophisticated and comply to international privacy- and data security standards, with proper data recovery plans in place.