



Trade Marks: A Simple Guide

WHAT IS A TRADE MARK?

A very important asset!

A trade mark identifies your goods or services. It guarantees the quality of those products to the purchasing public and ensures that they are not confused with the goods or services of your competitors. Satisfied customers will be reassured when seeing your trade mark that subsequent purchases will be to the same standard as the first. New customers will be attracted to your products by the presence of the trade mark, since any advertising or personal recommendation will emphasise the mark.

A trade mark can be one or more of a word, letters or numbers, a logo, a slogan, colours, a shape, an advertising jingle or any other sign that distinguishes your goods or services from those of others.

CAN I CHOOSE ANY TRADE MARK?

No! Many thousands of trade marks are already owned by other organisations. Before adopting a new trade mark, it is therefore important to check whether your mark is the same as or very similar to someone else's mark. If it is and you go ahead and use your mark, you may be forced to stop by the owner of the earlier right. This could have disastrous consequences, since you could lose everything spent on the initial launch of your product. You may even have to pay badly needed funds as recompense to the other party. It therefore makes good commercial sense to clear your mark for use and, once you have done this, apply to register it, so that you are in a strong position to stop others competing unfairly with you.

HOW DO I REGISTER MY MARK?

As follows! In order to obtain a registered trade mark, it is necessary to file a trade mark application for the mark covering a particular country (e.g. UK or USA) or a region (e.g. the European Union).

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Your mark will usually be accepted for registration if it satisfies two main criteria. First, it must not be descriptive of the goods or services of interest to you. Thus BEAUTIFUL would not be acceptable for ladies clothing, whilst TOP would not be registrable for hats. Second, the mark must not be confusable with an earlier mark that is registered and/or used for the same or similar products. If your mark meets both of these conditions, it will usually be accepted for registration.

IS IT WORTH REGISTERING MY MARK?

Definitely! Owning a registered trade mark has a number of advantages. It can give you legal rights even before you use your mark. It appears on a public register. This should help to steer your competitors towards marks that are different from yours.

Finally, it is much easier for you to stop others either inadvertently straying too close to your mark or deliberately copying your mark. This makes any legal action that proves to be necessary much cheaper. A trade mark registration is therefore a very cost-effective legal weapon.

WHO CAN ADVISE ME ON TRADE MARKS?

Jenkins! The journey from the initial trade mark choice, through the comparison with potentially conflicting marks, risk assessment, trade mark application, examination and opposition, to the final destination of trade mark use and registration can be a long and tortuous one. It is always safer and, in the long run, cheaper to seek professional trade mark advice from an early stage in the expedition.

Our firm has a team of fully qualified trade mark attorneys who have a wide range of experience in all aspects of trade mark law and practice. Our list of clients ranges from individuals, through small and medium sized enterprises, to some of the most famous corporations in the world. We are here to offer you any assistance you might need to optimise the protection of your very important trade mark assets.

The Legal 500 UK, 2020, TMT Trade Mark Attorneys: Tier 1 Recommended

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