

GUIDE TO CORRECT TRADE MARK USAGE

A trade mark registration gives its owner the right to sue for infringement anyone who uses a confusingly similar mark for the same (and sometimes for similar) goods or services. However, the rights acquired by registration and also by use can be lost if a mark is not used correctly as a trade mark.

The value of a mark is in its distinctiveness i.e. its ability to distinguish your goods/services from those of your competitors.

On packaging, in advertising material, websites or any other form of text, your trade mark should be treated in such a way that the reader is put on notice that the word is a trade mark.

There are numerous ways of indicating that the word is a trade mark, for example:

REPRODUCING IT IN CAPITAL LETTERS

Reproducing it in a different type face e.g. italics

Reproducing it in a different colour

Placing it in "Quotation Marks"

Reproducing it in BOLD type

Placing a TM or ® symbol beside it.

Placing an asterisk* beside it with a footer to acknowledge the trade mark

Use of the words "trade mark" or "brand" immediately after it.

It is also important to remember that your trade mark is designed to indicate your product or services as distinct from those of your competitors! It is therefore an adjective and should not be used in print or verbally as a noun or a verb.

Avoid using the trade mark in the plural or possessive form and always follow the trade mark with a generic word or phrase that describes the product or services.

Many words in everyday language started life as trade marks but have been lost through misuse by the trade and public:

e.g. gramophone, zip, linoleum, escalator.

Others such as HOOVER, PERSPEX and SELLOTAPE are often misused by the public but vigilance by their trade mark owners has so far ensured the rights obtained can still be relied on.

WHAT DOES IT MEAN?

TM - A trade mark that is not necessarily registered.

SM - A service mark that is not necessarily registered.

® - A registered trade mark.

© - The copyright symbol which may be applicable to logos.

TRADE MARK ACKNOWLEDGEMENTS

These apply particularly to packaging, websites, printed publicity material etc, and particular attention should be paid in situations where your trade mark is likely to be used alongside trade marks of other companies.

Registered trade marks should be accompanied by an indication that they are registered e.g. by use of the word "registered" or the words "registered trade mark" or the ® symbol. It is an offence to use the ® symbol if the mark is not registered. Explanatory notes should also appear on packaging and advertising literature along the lines of:

"... is a registered trade mark of... Limited"

If a trade mark is not registered (or not registered for the goods or services or in the territory in question) the word registered or the ® symbol can be replaced by the words "trade mark", the letters "TM" or the ™ symbol. But you should not rely on these. In many countries unregistered marks have little or no legal protection. Always ask us if your range of products or services is being extended or offered in new markets.

CHECK LIST

- ◆ Always use the trade mark as an adjective and NEVER as a verb or noun.
- ◆ Avoid use of a trade mark in plural form.
- ◆ Always spell the trade mark consistently and/or adhere strictly to the graphic design of the trade mark.
- ◆ If you use a logo or device ensure that you own the copyright.
- ◆ Periodically review your publicity material to ensure correct usage of trade marks.
- ◆ Encourage proper trade mark use by your customers and competitors and by your own sales and marketing staff.

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If you would like further information regarding correct trade mark use, or indeed, trade mark matters generally please contact us