

TRADE MARKS - A BRIEF GUIDE

WHAT IS A TRADE MARK?

A trade mark is any mark used to distinguish the goods or services of one business from those of its competitors. Trade marks may be words, colours, logos, sounds, smells, slogans etc. A trade mark may be the name of your company or of your products and services e.g. Coca-Cola®, Lexus®, The Sunday Times® and 'I'm lovin' it®'. It gives your business a unique, **protectable** brand which is readily identifiable by consumers. A trade mark should be as **inventive** and **distinctive** as possible, e.g., 'Orange' for a mobile operator, 'Apple' for computers, 'Goldfish' for credit cards, 'Egg' for banking. It can have a covert reference to the goods or services (e.g. Easy Singles for sliced cheese) but a trade mark cannot be **descriptive** of the goods or services in relation to which the mark is to be used.

I HAVE REGISTERED MY COMPANY NAME - WHY DO I NEED A REGISTERED TRADE MARK?

The only way to be sure that you have exclusive rights to an identity under which you wish to trade is by means of a trade mark registration. People often assume that once they have registered their business or company name, only they have the right to use the name. **Not so, this is a costly mistake often made!**

WHAT WILL A REGISTERED TRADE MARK DO FOR ME?

A trade mark is an intellectual property right which gives you the exclusive right to use your mark and prevent rivals from using it without your consent. It is an **asset of the business** which can be sold, licensed and mortgaged, just like any other piece of valuable property.

WHAT COULD HAPPEN IF I DO NOT REGISTER ANY TRADE MARKS?

Without appropriate trade mark protection for your trading name, brand name, product names, logos or service names these names could be copied or used by a third party including a competitor. Consequently you may lose business and goodwill.

WHAT SHOULD I DO?

We recommend that **before** you begin trading under a name, registering domain names or using a product or service name or logo you should investigate whether you can get trade mark protection for the name or logo. It is always advisable to undertake pre-application searches before applying to register a trade mark. If someone else already holds a registration for trade mark for the mark that you want to use, you could find yourself legally restrained from using that mark.

WHAT'S CLASSES DO I REGISTER IN?

There are 45 classes of goods and services in which you can register trade marks. You should register in the class or classes in which you trade or intend to trade at some time in the future. This adds to your scope of protection and value of your trade mark.

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WHERE DO I REGISTER MY TRADE MARK?

You can apply for trade marks on a country by country basis, or seek a European-wide trade mark. You can also apply for registration in nearly 80 countries by making a single application to the World Intellectual Property Organisation (WIPO) designating the countries of interest that subscribe to the system.

To discuss registering your trade mark or for general trade mark advice please contact:

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