

EASY GUIDE TO TRADE MARKS

What is a trade mark?

Trade marks tell people who you are – they are your brand, or badge of origin. Without trade marks, it would be impossible to tell businesses apart, or to tell the difference between all the products and services on offer.

There is real value in the brand your business generates. Trade marks that are unique to your business make you stand out from your competitors. They also protect your reputation and goodwill. Trade marks are a type of valuable asset, known as intellectual property. Like other assets, trade marks may be sold, or licensed to others to use.

Although they are usually words, logos and slogans, trade marks may also be musical jingles, colours, pictures and numerals.

Can you choose any name?

No, there are rules to follow. Not all names qualify for trade mark registration. For example, you're not allowed to use names that are descriptive of your business. So 'Tastyfood' could not be a trade mark, because it just describes a quality of the product. There are other rules, too, but basically your brand must be distinctive to be a registered trade mark. Invented words work well, or words that are not associated with your goods or services. 'Viagra' is a good example of a made-up word. 'WH Smith' is a trade mark because it is not obviously to do with stationery.

What do symbols like ® mean?

It's important to protect your trade mark by letting others know about it, and not to let people use it without your permission. In the UK, you put others on notice that you have a registered trade mark by adding the ® symbol next to your name, or using the letters RTM. Be careful, though, because it is an offence to use the ® symbol in a country or territory where the mark is not actually registered.

The ™ symbol can also be used where you have unregistered rights, or registered rights.

Have you been beaten to it?

If you use the same brand or logo as someone else, even by accident, you may be infringing their rights. So before using any new brand, or extending your brand into other areas, it is really important to check that no-one else has already got the same or a similar trade mark.

If your business name infringes someone's trade mark, you may have to find a new one. Sometimes this means complete rebranding, or even withdrawal from the market. So the cost of not checking can be very high. Quite simply, searching before you launch your brand is sensible risk management.

Why bother to register?

Trade marks ensure you have exclusive rights to your brand – a domain name or a registered company name does not give you this protection. Having a registered mark means you can control how the brand is used, how the brand is presented to the public, and who may use it. Your trade mark adds money value to your business, too, and it can be sold or licensed to others for

payment.

Of course, you don't have to register your brand as a trade mark. But if you only have unregistered rights, it is much harder and more costly to stop a competitor from copying your brand.

Having a registered mark, and using the "®" symbol, warns off copycat attacks and helps prevent others from stealing your branding.

Trade mark classes

Trade marks have to be registered in the business categories, or 'classes', in which you want to trade. When you apply to register your trade mark, the classes relevant for your business need to be selected. There are 45 different classes covering goods and services. You need to take care with this, because you will not be covered if your brand is used in a class in which you are not registered.

What's the process?

The process varies from country to country. In the UK, once an application is filed, it is examined by the trade mark registry. They decide whether the mark is suitable for registration, and whether it is too similar to any other registrations. If there are no problems, your trade mark is then publicly advertised, so that others have an opportunity to object.

About 2-3 months later, if no one has raised an objection to your application, the registration is granted, and a trade mark certificate will be issued. If anyone does object, your application becomes opposed, and you will need to decide whether, and if so how, to challenge the opposition.

How long do they last for?

Once registered, trade marks are valid for 10 years, at which point they will need to be renewed. But if you don't use or take steps to protect your trade mark, it may become invalid.

Is a UK application enough?

Trade marks give you exclusive rights only in the country or territory in which they are registered. So it is sensible to register a trade mark in the countries in which you are, or plan to, trade or sell goods.

You can manage your level of protection, your business risk, and the costs you are likely to incur by having a strategy about where, and how, to make applications. You can, for example, gradually roll out your trade mark applications to other countries in which you trade. This can help to spread the cost.

You can use a UK or Community Trade Mark (CTM) application as the basis for later applications in other countries. A CTM application covers the whole European Union with a single application. There is also another international process, known as the Madrid Protocol, which offers protection in key countries across the world, and is simpler and less expensive than making individual national applications.

How much does it cost?

It depends who you ask! Seriously, if you get a price from a trade mark agent, do check exactly what this covers, and whether it is a fixed fee or just an estimate. You will need to cost out the whole process, from application to registration. Sometimes firms charge separately for searching, filing the application and then for registration, so make sure you know what you are getting for the price

quoted. Also, check whether or not the price includes the official filing fees or any other 'extras'.

Bear in mind that it may not be possible to keep within the original fee or quote if there are unexpected problems with the application. If your mark is opposed, for example, you will run up additional costs, so it is important to find out in advance how you would be charged for these.

We offer good value fixed fee trade mark registration package options, as well as tailor-made options, depending on the particular needs of your business. The best thing to do is to call us for a quote, so we can guide you to the most suitable options.

As a basic guide, prices start at £600 + VAT for one class in the UK. Costs increase the more territories and classes you add, and depending on the visual aspects (e.g. words, logos and designs). For example, to register three classes in the EU will cost around £1900 plus VAT.

What Next?

[Call us](#) or [email us](#) for a quote, or more information about trade marks.

Want more? See:

[Easy Guide to Intellectual Property](#)
[Easy Guide to Protecting Confidential Information](#)

See what else we can do to help your business [here](#).

We recommend that you talk to a lawyer before going ahead with a trade mark application or any other matter involving trade marks.

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