

Frequently Asked Questions

Why register a trade mark?"

No one NEEDS a trade mark, although you can save a great deal of money if you own a relevant registration in the places you trade. You will need a trade mark if you intend to license or franchise your brand in many countries.

Trade marks help greatly in litigation and are essential in certain European countries.

Some people believe that a company registration protects a brand, it does not. A trade mark registration protects a brand and the company registration.

Who can register a trade mark?

Theoretically, any person or company can apply to own a trade mark. A trade mark registration can be owned by a third party (whether it is a "holding company" or a person, and licensed to the trading company to use.

Can I register my logo as a trade mark?

Many trading entities use a logo as part of their brand. If you trade in this manner, then it is best to register the logo as well as the words. A logo usually makes your brand stand out from the crowd and for that reason is easily copied by competitors. If your logo is used by competitors, then it is easier and cheaper to already have a trade mark registration of the logo before consulting us about infringement proceedings.

Can I apply for a trade mark if someone else has already registered a similar mark?

Without the consent of an earlier rights owner to use a trade mark, even if a registration of two similar marks is allowed by a trade marks registry, it is very dangerous to use a trade mark that is similar to an earlier trade mark as you may be forced to cease trading and pay legal costs and damages to the earlier rights owner. Registration of a trade mark can be challenged, by a prior rights owner. It is possible to register two similar names if the classification of those names is in different classes.

What are trademark classifications?

All goods and services produced by man are currently, for trade mark purposes, categorised into 45 classes. We can advise you on the proper classification of your brand, don't be tempted to do it yourself. If you believe that you may need

to use a brand in a class not currently utilised, then it is possible (in the UK and EU) to make a claim for that class, as long as you use the registration for that currently unused class in the next 5 years.

How long does the application process take?

The trade mark process can be complicated. That said, for most people who follow our advice, that process tends to be more simple.

The UK trade mark registry looks to publish application made to it within 2-3 months for “opposition purposes”. An application can be opposed up to a period of 3 months from the date of publication, although most are registered after two months. Therefore at best the UK application process lasts 4 months, but could take longer.

If you want a Community trade mark then the application is subject to similar scrutiny but the European trade mark office takes slightly longer to process applications. Applications for Community trade marks take, on average, 6-8 months to register from the date of application.

What is a community trademark?

A Community trade mark is valid in all 28 member states of the European Union. On registration, it gives the owner of that mark similar rights to a UK and other registrations in those member states. A Community trade mark is a cheap alternative to making applications in each of those 28 member states. Be aware that a Community trade mark does not give trade mark rights in European countries and territories that are not member states of the European Union (such as Switzerland, Russia or Jersey).

Can I use ® or ™?

Anyone can use ™ to denote that a word, phrase or picture etc. is being used as a trade mark, whether the word, phrase or picture etc. is registered or not.

Use of ® is a different thing. Using the symbol ® tells the world that the brand is registered. It is a criminal offence to indicate that a brand is registered, when it is not. Only use the ® once the brand has been registered and you have the certificate to prove this fact.