

TRADEMARK GUIDELINES FOR MARKETING

CHOOSING A TRADEMARK

TOP TIPS

1. You cannot use or register a trademark that is already owned by someone else if it is for the same or similar types of products/services.
2. Do some basic trademark searches before deciding on a name. Choose 3 to 4 "front-runners" for your legal team to perform a trademark clearance search to ensure that the trademark is available in your major markets.
3. Don't disclose your trademark to anyone else until it is filed!

Trademark DO's

- Use invented words such as NIKE, EXXON, VIAGRA and SPANDEX.
- Combine parts of descriptive words to create a new word. For example, MICROSOFT is a combination of "microcomputer" and "software".
- Make the first word the most distinctive. You can have a distinctive first word, and a descriptive second word, such as NIKE AIR.
- Animal and plant names tend to be memorable – FORD MUSTANG, APPLE COMPUTERS. But note that you should not use a similar mark as a competitor, like the crocodile logos for Lacoste and Crocodile Garments.
- Arbitrary and unique marks are stronger to enforce against competitors. Just think of your favourite retail brands that everyone would associate with no one other than the actual owners!

Trademark DON'Ts

- Don't use purely descriptive words. They cannot be registered. For example, you cannot register COLD BEER for malt beverages.
- Don't use geographic terms or surnames. You cannot own exclusive rights in a term that is a geographic location like OXFORD or a common surname like SMITH.
- Avoid generic words – for example six, orange, superior, American, deluxe and premium. You will not be able to stop others from using similar generic words.

For example, HERTZ DELUXE would not prevent a competitor from using AVIS DELUXE.
- Acronyms and numbers are difficult to register, unless you really work hard at marketing to make them distinctive before applying for registration.
- Consider translations and spelling (especially in relevant overseas markets)! You do not want a name that may have an unintended meaning in another language.

USING A TRADEMARK

- Use your trademarks in a **PROMINENT** and **CONSISTENT** manner. When a trademark appears in text, it should appear in **Bold** or ALL CAPS or **BOTH**.
- When a trademark appears in a heading it should be used in a consistent **FONT STYLE** and **COLOUR**.
- Establish a "style guide" for your trademarks so that your trademarks are used consistently. The style guide will:
 1. Identify the exact hue/pantone of the colours.
 2. Include .jpegs of the logos and any acceptable variations of the logos, such as black and white versions, and horizontal and vertical versions.
 3. Identify the font styles and point sizes to be used.

Do not alter or distort the trademarks from the style guide. The style guide should be shared with your marketing and public relations departments to make sure that the trademarks and any logos are used consistently.

- If the trademark is registered you should use the ® symbol after the trademark. If the trademark is not registered you should use the ™ symbol after the trademark.

You do not need to use these symbols all the time, but you should use the symbols the first time the trademark appears. While you do not need to use the symbols when the trademark first appears in a heading, you should use the symbols the first time the trademark appears in the body of text.

- Consider using an attribution statement – usually at the end of the text or in a footnote. For example, "*Google is a registered trademark of Google LLC*".
- A trademark should always be used as an adjective and NEVER as a generic description, verb or in plural or possessive form. The trademark is the brand and the product itself is the generic description. For example:

USE: DRLAW™ legal documents are the best in the industry.

DO NOT USE: DRLAW™ is the best in the industry.

USE: FROOTSY products are consumed by elite athletes.

DO NOT USE: FROOTSY's are consumed by elite athletes.