

Best Practice on Trade Mark Use

The purpose of a trade mark is to distinguish the goods or services of one trader from those of another. Trade marks allow the public to identify, without confusion, goods or services which originate from a particular person or company. They are valuable assets and care should be taken in the way they are used to ensure that they maintain their value.

Trade marks owners should ensure that they use their trade marks correctly. First and foremost, a trade mark should not be used as the generic name of the product on which it appears. Rather, it should be an adjective which is used to describe the product, for example DULUX paint, NIKE trainers, ROLEX watches.

If a registered trade mark is allowed by its owner to become a generic term, it can lose its registered status. Words which are now generic terms in everyday use but which were originally registered trade marks include 'escalator', 'linoleum', and 'gramophone'.

When including trade marks in product literature, it is advisable for trade mark owners to identify them by using

upper case lettering, bold font, italics, a different font-type or quotation marks. It is also possible for ® to be used next to registered trade marks and ™ to be used next to registered or unregistered trade marks. Such measures ensure that the public immediately recognise particular words as trade marks.

In addition to ensuring that they use their trade marks correctly, trade mark owners should also monitor use of their trade marks by third parties and take action if they become aware of misuse.

We can advise on all aspects of trade mark use.



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