

UK Trade Mark Frequently Asked Questions

I know the trade mark I want to use, can I start using it now?

Yes, unlike patent protection, there is no requirement for your trade mark to be "new" at the time of filing an application to register the mark. However, by using your mark before registering it you are taking the risk that someone else will apply to register your mark.

In the event of someone using your mark without your permission, it is a lot more difficult to rely on "common law" rights in your prior use of the mark, than to rely on a trade mark registration. Taking action for infringement of a registered trade mark is a lot quicker and cheaper than compiling a case to show that any unregistered rights in your mark have been infringed.

Why do I need to register my trade mark?

A trade mark registration is a valuable asset to your business. A trade mark registration can be licensed and assigned and can last for as long as you like, provided you pay renewal fees. In the event of someone using your mark without your permission, it is a lot more difficult to rely on "common law" rights in your prior use of the mark, than to rely on a trade mark registration. Taking action for infringement of a registered trade mark is a lot quicker and cheaper than compiling a case to show that any unregistered rights in your mark have been infringed.

I have registered my company name and my domain name, why do I need a trade mark registration?

Ownership of a domain name or registration of a company name does not provide any registered trade mark protection. If you wish to protect your trade mark, you need to register it. This will allow you take action against unauthorised use of your mark. Registering your company name with Companies House simply stops someone else registering a company with exactly the same name with Companies House. Without a trade mark registration, a third party could register a company with a very similar name to your own.

Domain name registration is also distinct from trade mark registration. If a third party registers your trade mark before you do, it is possible that they could stop you using your domain name.

We are happy to advise on the costs and timescale involved in applying to register your trade mark. We can also advise you on issues involving infringement of your mark.

What are “absolute grounds”?

In order to register a trade mark, the mark must have an inherent or acquired distinctiveness. The purpose of a trade mark is to act as an indicator of trade origin. You can ask yourself whether if you saw the mark you would recognise that it was being used in a trade marks sense. The absolute grounds for refusal of trade mark registration are separate from the “relative grounds” for refusal, where the mark is compared to existing trade mark registration. Absolute grounds for refusal are to prevent registration of marks which are inherently unsuitable for trade mark registration, for example if they are purely descriptive of the goods or services provided under the trade mark.

How long does a trade mark registration last?

As long as you like! You need to renew your UK trade mark registration every ten years and pay the appropriate fee in order to maintain a valid registration. We are happy to attend to renewals as part of our service. We will send reminders of any upcoming renewal deadlines and make you aware of the costs involved. A trade mark registration can be maintained indefinitely provided that there has not been a continuous five year period when the mark is not used. The long life of a trade mark registration is one of the reasons why a registration is a powerful tool for your business.

When can I use the trade mark symbols ™ and ®?

We recommend that you mark your unregistered trade mark with the ™ symbol to indicate that you are using the mark in a trade mark sense. However, use of the ™ symbol does not offer you any legal protection. For this, you must register your mark. Once you have registered your trade mark you can use the ® symbol to warn others against unauthorised use of your mark.