



Hanna Moore + Curley
Garryard House, 25/26 Earlsfort Terrace
Dublin 2, D02 PX51, Ireland
Telephone: +353 1 661 3930
Fax: +353 1 661 3453
Email: mail@hmc-ip.com

Building Powerful Trade Marks with a Lasting Competitive Advantage



We're bombarded by thousands of trade marks and advertising messages every day. Amid this proliferation of consumer choices, your brand has to work hard to stand out as a recognisable, credible, and desirable visual and verbal expression of what your business offers.

Through repeated exposure, your symbols become instantly recognizable and trigger associations in the mind of the observer. Your brand speaks to your customers about the quality and authenticity of your business.

Effective trade marks are:

- Memorable and appealing
- Relevant and appropriate: present an image which aligns with the company's stated values, and congruent with its behaviours
- Flexible: scale well, work well in black and white or colour, and work across different media
- Sustainable: work well across linguistic or cultural barriers, and last the test of time
- Used clearly, coherently and consistently
- Legally protectable.

Here are the four key steps to building a powerful trade mark.

Create

Inventing a great brand takes some imagination. Many business owners assume a name which describes the goods or services involved is best because customers immediately understand what you do. However, there are two disadvantages in a descriptive name - firstly, it's likely that the words you choose may also be chosen by other, similar businesses.

A surprising or unexpected name which has no direct connection to your goods and services will help differentiate you from others in your field, and will offer a greater chance of successful trade mark registration. Invented words can work well as company names. It may require little more marketing effort to introduce and raise awareness of your company at first, but an unusual name is more likely to stand out in the customer's memory.

If you've got a list of possible names, it's a good idea to carry out a search on the internet to see who else might be trading under similar names. Check the registers of company names and domain names, and have a trade mark attorney carry out a search of trade mark registers for possible conflicts. You don't want to accidentally infringe upon somebody else's prior rights.

Consider how your company name will fit with other pieces of your brand jigsaw: do you have a logo? What fonts and colours will you normally use in your business? Do you use a slogan or catchphrase that works in synergy with your business name?

One momentary glance is all the time you get with consumers to make an impression! So don't allow clutter - instead, try to create a focussed brand, which helps your product shine out on its shelf. As part of your design process, consider that the science of perception shows that of all visual stimuli, the human brain remembers shapes most quickly. The brain acknowledges colours second; and colour is crucial in evoking emotions. The brain takes longer to process language; so the interpretation of word content lags behind shape and colour.

Register

Registering your trade mark provides you with a monopoly right to the use of your mark on your goods and services. Although it is not compulsory to register your trade marks, doing so provides an exclusive business advantage. Holding a registered trade mark is an indicator that your brand is a valuable asset and suggests a level of professionalism which is attractive to investors. It immediately alerts other traders to your understanding of your legal rights, which is a strong deterrent to copycats. Without the legal clarity afforded by trade mark registration, enforcing your rights is considerably more difficult and can be very much more expensive.

You'll need to determine as precisely as possible what goods and services you intend to bring to your market. Trade marks are registered with reference to your chosen list of goods and services, which need to be specified and categorised. Similar terms can be grouped under class headings. The cost of registration increases when you seek protection under additional class headings.

It is important to consider the parts of the world where you plan to trade.

Trade mark registrations are geographically-patched. Registration can be obtained nationally (country by country) or across the whole EU at once, via an EU Trade Mark application. There is also a "Madrid System" for trade mark registration, which can provide a streamlined application for registration across many countries worldwide.

Promote / Use

Promoting and using your brand assets effectively is how you really create brand value. You should use your trade marks in the manner they are registered, as correct use is important in maintaining registration. Investing in advertising and promotion helps your consumers recognise your brand so they can correctly identify your products and services and associate them with the brand values you intended.

Ensure everybody in the business understands that your trade marks are valuable important assets and should be used appropriately. Remember the two most basic, golden rules of trade mark use:

- 1) Always use your trade mark as an adjective, never as a noun or verb. Use your trade mark as a trade mark, followed by the product's generic name as the noun. Do not allow the use of the trade mark as a plural or in possessive sense.
- 2) Indicate the use of your registered trade mark clearly in visual materials - use the text "Brand name is a registered trade mark of Company name", use the (R) symbol, a different typeface or bolding, or even quotation marks to highlight your trade marks

Keep records of the use you make of your mark and the investment you make in promoting it.

You may wish to buy, license or sell trade marks. Consult a trade mark attorney for advice in these circumstances to discuss royalty rates, conditions required to ensure the proper use and maintenance of your trade marks and your duties as a licensee or licensor. Remember that the integrity of the brand must be safeguarded to preserve its' value.

Protect

For peace of mind, retaining a trade mark attorney is advisable. It's important to watch out for other businesses who start to use a name, logo or look that is confusingly similar to yours. As a business owner, it's important to be aware of your competitors' actions, so your own vigilance is key. There are also professional trade mark and company name watching services which your trade mark attorney can arrange for you, where you will receive a notice of any new possible conflicts in time to take early action.

If you discover somebody who appears to be infringing upon your rights, take swift action, beginning with gathering evidence and obtaining advice from your trade mark attorney. It's prudent to deal with the matter professionally, and follow the correct legal process from the outset.

If you ever receive correspondence such as a cease and desist letter from another business owner, contact a trade mark attorney without delay for advice and professional representation.



Mary White

Registered Trade Mark Attorney
Hanna Moore + Curley
Direct: +353 1 634 4269
Main: +353 1 661 3930
Mail: mwhite@hmc-ip.com

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