Creative insights
Sturgeon Brand Identity, Design and Storytelling Studio

14 reasons why you need to do a trademark check before you do anything else

If you are weighing up whether you should run a Trademark, check on your new brand, then check out 14 reasons why we think you should... note a trademark can be words or a logo.

There are serious legal consequences of trademark infringement that include fines and even in some cases custodial sentences.

1. A stitch in TIME saves nine…

If you are going to all the effort of understanding the needs of a particular market and crafting a name and a logo to represent your new brand, it makes sense to invest time and effort in ensuring you can secure the trademark. In this article, we will examine the top 10 reasons you need to do a trademark check before applying it to marketing and communications.

2. Legal Implications

There are serious legal consequences of trademark infringement that include fines and even in some cases custodial sentences.

If found guilty of copyright infringement in a magistrate's court, your business could be **fined up to £50,000 and you could face a jail term of up to six months**. If the case reaches a Crown Court, fines can be unlimited, and the maximum sentence is up to ten years imprisonment.

This demonstrates the importance of undertaking thorough Trademark checks before it gets to this stage.

3. Protecting Your Brand

Any successful brand is unique and memorable, and Trademarks protect your brand from people coming along and trying to pass off or imitate the success of your hard work. A Trademark provides legally enforceable ownership of the said brand and its parts. It makes sense to check to ensure your brand is protected.

4. Preventing Confusion

Not only does having a Trademark prevent others from imitating you but by checking you also ensure your brand is not confused with an existing brand and create confusion among consumers. Any confusion when it comes to brand identity is a cause for concern and can impact brand recognition, integrity and ultimately sales. Luckily it can be easily mitigated by a simple Trademark check.

5. Avoiding Unnecessary Costs

When it comes to the cost of trademark disputes, there is no definitive or absolute answer. If an infringement is upheld in court, then awards can be based on a range of different criteria including loss of earnings/profits, damage to the company/brand as well as the fees incurred from bringing the case to court. If added up these can amount to huge sums of money that could have been avoided by a simple trademark check.

6. Establishing Brand Recognition

Securing a Trademark plays a significant role in establishing brand recognition within your chosen markets or audiences. Official Trademarks can be instantly recognised by the little or the registered mark which unregistered brands can not use. The application and use of these marks instantly convey a message to users and consumers, it shows that this is a legally recognised brand. What they infer from that can differ, but the consensus is that this recognition is a positive association.

7. Maintaining Control

Trademarks assist you in owning your brand in its entirety by establishing a legally recognised entity. Once a brand has this level of legal recognition it allows you to maintain control, which even allows you to pass ownership to another party. Trademark checks ensure that you own and maintain your brand's integrity and value.

8. Avoiding Legal Battles

No brand would want to be embroiled in a legal battle, as even a win can damage the brand and the business behind it. The best option is to avoid them completely and therefore investing in a trademark check is money well spent. A relatively small outlay now can save you a considerable sum later.

9. Avoiding Public Relations Disasters

There have been several brand-led stories in the press recently, where ownership of a product has been called into question. One of the most high-profile is the battle between Aldi and Marks & Spencer over ownership of the caterpillar cake. M&S easily established that they were the first to create a Colin the Caterpillar cake back in 1990. What has ensued is a very public feud with Aldi, where even when they were in the right, lost the battle in the public eye.

10. Making Informed Business Decisions

As some of the above points have illustrated in business there is often a huge gap between what we would like to happen and what will happen. Trademark checks allow you to clarify exactly what a situation is and not what you hope it is and this informed approach fosters improved decision-making.

11. Ensuring you have the correct classes for your business

Your incorporated company can also be a trademark for the classes you register it for so that it can be cross checked. For instance, companies like Monsoon which are incorporated and their main trademark is for clothing, can license their trademark to be used in other classes making the most of their brand and new revenues shares.

12. If I own a company registered in companies house do I need a trademark?

You should not have a trademark in the UK the same as an incorporated company in companies house, as this could be deemed passing off, this is especially important in areas such as financial services, where misinterpretation of who a company is could lead to consumer harm.

13. A trademark in the UK only

If your business is only in the UK, you only need a UK trademark, however if it is in more countries or global you should also look to register in those areas.

14. Global trademarks

It is best to hire a trademark lawyer to register global trademarks on your behalf.

Conclusion

Trademark checks save time, money, and potential drama. Although it is easy to think that the money for a check could be used somewhere else, this could cost you a lot more (if not everything) in the long run. They provide confidence and empower informed decisions that allow you to fully own and manage your brand and its assets. It is best to understand the value that a trademark check can offer rather than the cost that they attract to do.

Securing a Trademark plays a significant role in establishing brand recognition within your chosen markets or audiences.

Legal Guidance

If you would like legal guidance on any of these issues please get in touch with:

Cliff Fluet, Head of Media **Cliff.Fluet@lewissilkin.com**

LEWIS SILKIN

Would you like help developing any specific aspect, like a logo idea, tagline, or documentation suites contact us at **hello@sturgeonstudio.com**

DISCLAIMER

This 'Insight' is provided for general information purposes only. It is not intended to constitute business advice, or legal advice, nor does it constitute a financial promotion under the Financial Services and Markets Act 2000. The content relates to trademarks and is intended to offer general commentary and insights. While the information has been prepared in good faith at the date of publishing it, no representation or warranty is made as to its accuracy or completeness. Readers should seek independent professional advice before making any decisions related to trademarking a name or a logo, either in the United Kingdom or overseas.

June 2025