

Trade Mark Search Report - Limitations

A trade mark registration will be infringed if an identical mark is used in relation to the goods or services specified. Infringement will also take place if an identical or similar mark is used in relation to goods or services which are the same as or similar to those specified in the registration, if the result is to cause confusion. Infringement can also occur if any registered mark has acquired a reputation and a mark is used which is the same or similar thereto (regardless of the goods concerned), and the result is to take unfair advantage of or damage the distinctive character or repute of the registered mark. This last possibility is not taken into account in the search which the Trade Marks Registry will itself carry out when examining an application. You should also bear in mind that registered trade marks (and applications) may be bought and sold, so that a mark shown to be owned by someone thought to be neutral may fall into the hands of a competitor.

We have searched for identical marks in all classes but within a reasonable budget it is not practicable to search for similar marks in all classes.

A Trade Marks Registry search cannot take into account marks which are in use but which have not been made the subject of a registration or an application for registration. A mark currently in use may be entitled to registration in preference to an unused mark. Also, the proprietor of a mark or name which is in use and has a reputation in this country may be entitled to prevent use of a similar mark or name. Marks which are very well known in the UK may be entitled to protection even if the only use which is made of them is in a foreign country. We would recommend that you make additional enquiries through the trade as to the use of similar marks and names. No search of the Register of Companies has been conducted, nor of the internet. Registration of company or domain names in the UK carry no right to prevent others using a mark or name similar to a company or domain name. Nevertheless, a company or website to which goodwill has become attached may be protected by a passing off action. Company name and internet searches are advisable but have not been carried out as part of a trade mark search.

The computer databases provided by the UK and the EU Trade Marks Registries upon which this search is based are not completely up-to-date and, although maintained reasonably accurately, errors have been found in the past, and we cannot accept liability for such errors or delays.

Finally, the search takes account only of marks which are the subject of registrations or applications for registration on the UK and/or EU Trade Marks Registers, depending upon your instructions, as well as marks on the International Trade Marks Register which designate the UK. Also please note that Trade mark applications filed overseas can be used to "back-date" applications filed in the UK within six months of the date of filing overseas. It is not possible to anticipate such priority claims.

Our report is given subject to the limitations explained above.

If you would like to know more about this topic or our other legal services, please contact:

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