



Need a trade mark?



# General information about trade marks

## Use of the <sup>TM</sup>, SM and ® symbols

In most countries, the laws governing trade marks allow anyone claiming rights to a trade mark or service mark to use the <sup>TM</sup> or SM symbols. It is not necessary to have a registration, or even a pending application. The official symbol ®, however, can only be used if your trade or service mark is registered.

Please note: The symbols are not considered part of the mark. When you submit an application to register your trade mark or service mark, the symbols must be omitted.

## What are trade marks and service marks?

A trade mark (or 'brand name' as it is sometimes called) is what a trader uses to distinguish his or her products from those of other traders. A trade mark may be a word, a logo, a monogram, a shape or a signature – or any combination of those. To perform its function effectively, a trade mark must be distinctive.

A service mark is used to advertise something that has no 'package' to place a trade mark on – usually a service rather than a product.

## Legislation

For centuries, common law has protected traders against 'passing off' – that is when someone copies your trading name or a distinctive element of your brand. It is possible to take legal action against someone you know to be 'passing off'. If successful, you can get an injunction against them using your brand.

Fighting a 'passing off' action does have limitations, though, and the only way you can establish clear-cut rights is by registering a trade mark. This gives you statutory control over the use of your trade mark in relation to the goods and services to which you have registered it. Registration gives you the right to sue against any infringement or unauthorised use of your trade mark.

People have been able to register trade marks in the UK since 1876, giving them protection under the Trade Marks Act. In 1986, the Trade Marks Act was extended to include service marks.

## What can be registered?

A trade mark can only be registered to cover the goods or services which you are selling or intend to sell. To be registered, your trade mark must be distinctive.

### It must NOT be:

1. descriptive of the nature or purpose of your goods or services
2. a geographical place name
3. laudatory (it must not contain praise)
4. a common geometrical figure on its own
5. similar to an existing registered trade mark in respect to similar goods or services
6. deceptive in suggesting that your goods possess characteristics which they do not have
7. contrary to law or morality, or of a scandalous design.

**Note:** When a trade mark has been in use for more than five years, it may be possible to register it even though it contains one of the disqualification criteria set out above.

When you register a trade mark, it is important to carry out proper searches to check that it does not conflict with a pending, registered or recently lapsed mark. Your application must contain copies of the mark you intend to use.

In your trade mark application, you must specify the goods or services you sell or provide. For the purpose of registration, goods and services are divided into 'classes'. There are 34 different classes for products and eleven for services. Your application may refer to goods and/or services in more than one class.

Your application will be considered by the Trade Marks Registry and, if accepted, will be advertised in the Trade Marks Journal. It will be open to opposition for two months (which can be extended for another month if a 'Notice of Threatened Opposition' is filed). If no opposition is filed, your trade mark will be entered into the Trade Mark Register.

The registration of a trade mark lasts for ten years from the date of application. It can be renewed for subsequent periods of ten years for a fee.

## Why register?

Registering your trade mark makes it easier for you to take action against imitators than if you just cite 'passing off'. You get legal rights from the date of your application, and they generally cover the whole of the UK. Registration acts as a valuable deterrent for people who may adopt identical or confusingly similar marks to yours. Your mark is officially recorded on the Register of Trade Marks.

## How can protecting my trade mark help my business?

Registering your trade mark can:

- protect your investment in developing new products
- protect your reputation
- generate licence revenue for you.

## Searches

We can carry out a search of existing trade marks for you, using the UK and EU Trade Mark Registers. We undertake searches in all 'classes' of goods and services in which there may be similar trade marks to yours. Our search fees

are just £94 and take around ten working days to complete. Please use Form TM1 for this service.

If you want to register your trade mark, we will complete an 'acceptance report' which advises you whether your mark is likely to be accepted. If you are planning to register as well as search for existing trade marks, please use Form TM2 and not TM1. The cost of a search and acceptance report is £150 plus VAT.

We can also carry out limited common law and trade searches for marks which may be used by traders, but which have not been registered as trade marks.

If your proposed trade mark is available for use and distinctive enough to be registered, you can make an application with the UK Trade Marks Office. As trade mark agents we can do this for you, seeing your application through the complex procedures of the UK Intellectual Property Office and, presuming no oppositions are raised by third parties, obtain registration for you within five to six months.

Our fee for making your application (under one 'class'), publishing your trade mark and registering it is £401.25. Additional 'classes' cost £100 plus VAT. If more work is needed to

overcome oppositions by third parties then additional fees will be payable.

## National trade mark protection – UK

The UK Trade Mark Office has been registering trade marks since 1876. As you can imagine, there are millions of marks either pending, registered or recently lapsed that could prevent you from legally using a particular style or name. That is why it is important to carry out an availability search before making an application.

In order to carry out your search, we need:

- full details of the mark to be searched
- a copy of any logo or decoration to be included
- details of the goods/services for which your trade mark refers to, so we can select the correct class(es).

## 'Name Watching'

After your trade mark has been registered, you may wish to subscribe to our Name Watching service. We can monitor your trade mark in the

UK and/or abroad to make sure that no one tries to copy it.

If a similar trade mark application to yours is filed, we can help you raise an objection in sufficient time to prevent that mark from being registered. For a very reasonable cost, we can monitor every class of mark almost worldwide.

This is a good service to consider once your trade mark is registered – Form TM4 explains it in more detail.

## Protection abroad

The Community Trade Mark Office allows you to apply for a single trade mark registration to cover the whole of the European Union. If you need trade mark protection in a few different countries, a community trade mark can have significant cost benefits. In fact, the cost of getting a community trade mark may be no more than the cost of four separate country registrations.

You may also consider doing a search in all EU countries (see Form TM1 for more information).

For a brochure on community trade marks and an application form, please contact us.

# Classes of goods/products

## Class 1

Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

**Explanatory note:** This class includes mainly chemical products used in industry, science and agriculture, including those which go to the making of products belonging to other classes.

## Class 2

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

**Explanatory note:** This class includes mainly paints, colorants and preparations used for the protection against corrosion.

## Class 3

Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices.

**Explanatory note:** This class includes mainly cleaning preparations and toilet preparations.

## Class 4

Industrial oils and greases; lubricants; dust absorbing, wetting and binding composition; fuels (including motor spirit) and illuminants; candles, wicks.

**Explanatory note:** This class includes mainly industrial oils and greases, fuels and illuminants.

## Class 5

Pharmaceutical, veterinary and sanitary preparations; dietic substances adapted for medical use, food for babies; plasters, materials for dressings; material for filling teeth; dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

**Explanatory note:** This class includes mainly pharmaceuticals and other preparations for medical purposes.

## Class 6

Common metals and their alloys; metals building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metals not included in other classes; ores.

**Explanatory note:** This class includes mainly unwrought and partly wrought common metals as well as simple products made of them.

## Class 7

Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.

**Explanatory note:** This class includes mainly machines, machine tool, motors and engines.

## Class 8

Hand tools and implements (hand operated); cutlery; side arms; razors.

**Explanatory note:** This class includes mainly hand-operated implements used as tools in related professions.

## Class 9

Computer software supplied through the internet; electronic publications (downloadable) provided online from databases or the internet; computer software and telecommunications apparatus (including modems) to enable connection to databases and the internet; computer software to enable searching of data; digital music (downloadable) provided from the internet; digital music (downloadable) provided from MP3 websites. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, signalling, checking (supervision), lifesaving and teaching apparatus and instruments; apparatus for the recording, transmission or reproduction of sound or images; magnetic data carriers and recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus.

## Class 10

Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials.

**Explanatory note:** This class includes mainly medical apparatus, instruments and articles.

## Class 11

Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

## Class 12

Vehicles; apparatus for locomotion by land, air or water.

## Class 13

Firearms; ammunition and projectiles; explosives; fireworks.

**Explanatory note:** This class includes mainly firearms and pyrotechnical products.

## Class 14

Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

**Explanatory note:** This class includes mainly precious metals, goods in precious metals and in general jewellery, clocks and watches.

## Class 15

Musical instruments.

## Class 16

Paper, cardboard and goods made from these materials, not included in other classes; printed matter; book-binding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

**Explanatory note:** This class includes mainly paper, goods made from paper, and office requisites.

## Class 17

Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

**Explanatory note:** This class includes mainly electrical, thermal and acoustic insulating materials and plastics, for use in manufacture in the form of sheets, blocks and rods.

## Class 18

Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins and hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harnesses and saddlery.

**Explanatory note:** This class includes mainly leather and leather imitations; travel goods not included in other classes, and saddlery.

## Class 19

Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

**Explanatory note:** This class includes mainly non-metallic building materials.

## Class 20

Furniture, mirrors and picture frames; goods (not included in other classes) made of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meershaum and substitutes for all these materials, or of plastics.

**Explanatory note:** This class includes mainly furniture and its parts and plastic goods, not included in other classes.

## Class 21

Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in buildings); glassware, porcelain and earthenware not included in other classes.

**Explanatory note:** This class includes mainly small, hand-operated utensils, glassware and articles in porcelain.

## Class 22

Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except rubber or plastics) raw fibrous textile materials.

**Explanatory note:** This class includes mainly rope and sail manufacture products, padding and stuffing materials and raw fibrous textile materials.

## Class 23

Yarns and threads, for textile use.

## Class 24

Textiles and textile goods (not included in other classes); bed and table covers.

**Explanatory note:** This class includes mainly textiles (piece goods) and textile covers for household use.

**Class 25**

Clothing, footwear, headgear.

**Class 26**

Lace and embroidery, ribbons and braid; button, hooks and eyes, pins and needles; artificial flowers.

**Class 27**

Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

**Explanatory note:** This class includes mainly products intended to be added as furnishings to previously constructed floors and walls.

**Class 28**

Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

**Class 29**

Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables and other horticultural comestibles products which are prepared for consumption or conservation.

**Class 30**

Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey and treacle; yeast, baking-powder, salt, mustard; vinegar, sauces (condiments); spices, ice.

**Explanatory note:** This class mainly includes foodstuffs of plant origin prepared for consumption or conservation as well as auxiliaries intended for the improvement of the flavour of food.

**Class 31**

Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

**Explanatory note:** This class includes mainly land products not having been subjected to any form of preparation for consumption, live animals and plants as well as foodstuffs for animals.

**Class 32**

Beers; mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices; syrups and other preparations for making beverages.

**Explanatory note:** This class includes mainly non-alcoholic beverages, as well as beer.

**Class 33**

Alcoholic beverages (except beers).

**Class 34**

Tobacco; smokers' articles; matches.

**Class 35**

Advertising, business management; business administration; office functions. Advertising and promotion services and information services relating thereto; business information services; all services provided online from a computer database or the internet; compilation of advertisements for use as web pages on the internet; completion of directories for publishing on the internet, provision of space on websites for advertising goods and services; auctioneering provided on the internet; business administration services for the processing of sales made on the Internet.

**Explanatory note:** This class includes mainly services rendered by persons or organisations principally with the object of:

1. help in the working or management of a commercial undertaking or 2. help in the management of the business affairs or commercial functions of an industrial or commercial enterprise, as well as services rendered by advertising establishments primarily undertaking communications to the public, declarations or announcements by all means of diffusion and concerning all kinds of goods or services.

**Class 36**

Insurance; financial affairs; monetary affairs; real estate affairs. Information services relating to finance and insurance, provided online from a computer database or the internet; home banking; internet banking.

**Explanatory note:** This class includes mainly services rendered in financial and monetary affairs and services rendered in relation to insurance contracts of all kinds.

**Class 37**

Building construction; repair; installation services. Information services relating to repair or installation, provided online from a computer database or the internet; installation and repair of telecommunication apparatus; installation and repair of computer hardware.

**Explanatory note:** This class includes mainly services rendered by contractors or sub-contractors in the construction or making of permanent buildings, as well as services rendered by persons or organisations engaged in the restoration of objects to their original condition or in their preservation without altering their physical or chemical properties.

## Class 38

Telecommunications; telecommunication of information (including web pages), computer programs and any other data; electronic mail services; providing user access to the internet (service providers); providing telecommunications connections to the internet or databases; providing access to digital music websites on the internet; providing access to MP3 websites on the internet; delivery of digital music by telecommunications; operating search engines.

**Explanatory note:** This class includes mainly services allowing at least one person to communicate with another by sensory means. Such services include those which:

1. allow a person to talk to another, 2, transmit messages from one person to another and 3. place a person in oral or visual communication with another (radio and television).

## Class 39

Transport, packaging and storage of goods, travel arrangement. Arranging travel and information therefore, all provided online from a computer database or the internet.

**Explanatory note:** This class includes mainly services rendered in transporting people or goods from one place to another (by rail, road, water, air or pipeline) and services necessarily connected with such transport, as well as services relating to the storage of

goods in a warehouse or other building for their preservation or guarding.

## Class 40

Treatment of materials. Information services relating to treatment of materials, provided online from a computer database or the internet.

**Explanatory note:** This class includes mainly services not included in other classes, rendered by the mechanical or chemical processing or transformation of objects or inorganic substances. For the purposes of classification, the mark is considered a service mark only in cases where processing or transformation is affected for the account of another person. A mark is considered a trade mark in all cases where the substance or object is marketed by the person who processed or transformed it.

## Class 41

Education; providing of training; entertainment; sporting and cultural activities. Publishing services. Information relating to entertainment or education, provided online from a computer database or the internet; electronic games services provided by means of the internet; providing online electronic publications (not downloadable); publication of electronic books and journals online; operating chat rooms; providing digital music (not downloadable) from the internet; providing digital music (not downloadable) from MP3 websites.

## Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services; installation, maintenance and repair of computer software; computer consultancy services; design, drawing and commissioned writing for the compilation of websites; creating, maintaining and hosting the websites of others; compilation, creation and maintenance of a register of domain names; leasing of access time to a computer database.

## Class 43

Services for providing food and drink; temporary accommodation.

## Class 44

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

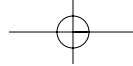
## Class 45

Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

# Our services

## We can...

- search the availability of your chosen trade mark or service mark
- apply for trade mark registration on your behalf
- deal with 'passing off' and unfair competition
- look after licensing, assignments and acquisitions
- use litigation to enforce or defend your intellectual property
- provide you with correct usage guidelines
- renew your trade mark for you
- keep an eye on the trade mark register
- make oppositions to trade mark applications that conflict with yours
- rectify or remove applications at your request
- set up community trade marks.



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