

INTRODUCTION TO ONLINE TRADEMARK USE CHART

Website owners and operators (perhaps even more so their legal advisors) often wonder whether use of their trademarks (or the trademarks of others) on their website is sufficient to ground and support registration, avoid cancellation for non-use or even pose a risk of a possible action for infringement. In effect, is trademark use online any different from trademark use in print and other forms of media advertising?

With the internet being our most truly global marketplace, the question takes on even greater complexity as trademark and website owners are forced to grapple with a mind-boggling multiplicity of laws and jurisdictions. The Online Use Subcommittee of the Internet Committee of INTA therefore decided to tackle the thorniest issues concerning online use of trademarks in 25 countries in order to clarify the question of what constitutes sufficient online use to support registration, prevent non-use cancellation and concomitantly avoid possible infringement proceedings.

The 25 countries chosen for consideration have a wide geographic range spanning the 5 continents. The questions posed are pointed and include:

- Is availability of goods over the internet considered use of the trademark?
- If yes, must goods available over the internet be purchased in the country?
- Must goods available over the internet be directed towards consumers in the country?
- Is it necessary to lead evidence of actual purchase of goods available over the internet?
- Does mere advertising of a trademark over the internet without the presence of goods or services in your country constitute use of the trademark?

Having collected answers to these and other equally pressing and pertinent questions, the Subcommittee assembled the Online Trademark Use Chart published here to help guide trademark and website owners, as well as the legal practitioners they rely on for advice on these issues.