

A GUIDE TO PROPER TRADEMARK USE

for the MEDIA and PUBLISHING PROFESSIONALS



WHAT IS A TRADEMARK?

A trademark is any word, name, symbol or device (or any combination thereof) that identifies and distinguishes the source of the goods of one party from those of others. Similarly, a service mark is any word, name, symbol or device (or any combination thereof) that identifies and distinguishes the services of one party from those of others.

Trademarks and service marks (“mark” or “marks”) are important and valuable assets for both businesses and consumers. A distinctive mark allows a business to build public goodwill and brand reputation in the goods or services it sells. Marks also help consumers determine the value and quality of a good or service.

The International Trademark Association (INTA) has developed this guide to provide you with a few easy-to-follow rules concerning proper mark use because it is important that trademarks, service marks and trade names be properly used in print and other media. When referring to a mark, make sure you pass the “ACID” test of proper use:

- A**djective
- C**onsistent
- I**dentification or Status
- D**istinctive

ADJECTIVE

Trademarks and service marks are proper **adjectives**. Not nouns. Not verbs. A mark should always be used as an **adjective** qualifying a generic noun that defines the product or service. A mark is a company brand name, not a product or service itself. As adjectives, marks should not be used as plurals or in the possessive form, unless the mark itself is plural or possessive (such as 1-800-FLOWERS, MCDONALD'S or LEVI'S).

EXAMPLES

Correct:

“Use a XEROX brand copier”;

“Please hand me a KLEENEX tissue”

Incorrect:

“XEROX these copies”;

“a five-KLEENEX movie”

Correct:

“Send the packages via FEDEX courier”;

“Send the packages via EXPRESS MAIL service”;

“I had four STARBUCKS lattes”;

“Put on your RAY-BAN sunglasses”

Incorrect:

“Send the FEDEXs”;

“Send it EXPRESS MAIL”

“I drank four STARBUCKS”;

“Put on you RAY-BANS”

Are these important distinctions? Yes. Think of the following: Aspirin. Elevator. Kerosene. Corn Flakes. Yo-Yo.

Each of these well-known product names was once a famous trademark with rights exclusively owned by a company. Today, due to misuse of the marks, they are merely generic product names with no accompanying trademark/service mark rights. These “ghost-marks” serve as historic and costly reminders of what can happen to marks if the public comes to regard a brand name as the generic name of a product.

In this context, please note another important distinction: trade names are not the same as trademarks or service marks. Although many companies use their trade names as their marks, trade names are corporate or business names and are proper nouns, not adjectives. Consequently, trade names can be used in the possessive form (for example, “Reebok’s newest line of athletic shoes is for children”) and need not be followed by generic nouns that define a product or service (for example, “These athletic shoes are made by Reebok”). When using a trade name, it is not appropriate to use a trademark or service mark symbol.

CONSISTENT

Businesses use many styles to represent their marks. Thus, it is important that your references to a particular mark are accurate and consistent, i.e., the mark should be represented the same way each time. For example, if a mark is represented in all capital letters, you should consistently use all capital letters when referencing that mark. This has the desired effect of emphasizing that the term is indeed a trademark or service mark, not merely another word in the text.

IDENTIFICATION OR STATUS

To consistently identify trademarks and service marks, a (mostly) international system of demarcation or trademark notices has been established.

In the United States and most other countries, the TM symbol is recognized as identifying an unregistered trademark. The SM symbol is used to identify an unregistered service mark (a mark used in connection with a company’s services

rather than with goods). Although these symbols have no legal significance, their use does have the preventative effect of indicating possible claims to trademark rights in the designations with which they are used.

Most countries have also adopted the ® symbol used in the United States to identify a registered trademark or service mark. Other proper forms of notice for registered trademarks in the U.S. include: “Registered in the U.S. Patent and Trademark Office” and “Reg. U.S. Pat. & Tm. Off.”

Certain countries have other symbols and designations, including “Marca Registrada” or “MR” in some countries where Spanish is the dominant language, and “Marque Déposée,” “Marque de Commerce,” or their abbreviations, “MD” and “MC,” in some countries where French is the dominant language. Demarcation practices vary from country to country and, logically, marking should be in the local language(s) or otherwise meaningful to your readers and/or the people in the country in which the products or services are advertised and sold.

Generally, demarcation is not necessary for every occurrence of a trademark or service mark in an article, press release, advertisement or other promotional materials; however, at a minimum, this identification should occur at least once in each piece of printed material, either the first time the mark is used or with the most prominent use of the mark. When in doubt, err on the side of “over-marking.”

TM

SM

® SM

®

DISTINCTIVE

Trademarks should always be distinguished from surrounding text. In running text, for example, trademarks are often distinguished by using capital letters or italics. In addition, the generic noun that defines the product or service should be used immediately after the trademark name at least once in each separate written or broadcast communication, preferably the first time that the trademark appears in the text. Additional emphasis can be given to trademarks by using the word “brand” after the mark or by using one of the acceptable symbols that indicate trademark status, as mentioned in the “Identification” section above.

EXAMPLES:

KLEENEX tissues

Canon® cameras

Scotch brand transparent tape

Callaway golf clubs

INTA RESOURCES

The International Trademark Association (INTA) is a not-for-profit membership association of more than 5,800 trademark owners and professionals, from more than 190 countries, dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective national and international commerce.

INTA's Trademark Hotline

If you still have questions regarding the proper trademark use of a company's brand name for media and publishing purposes, you can contact the International Trademark Association's Trademark Hotline for assistance. INTA's Trademark Hotline offers free answers to questions from members of the media regarding the spelling, capitalization and proper usage of trademarks.

Inquiries can be submitted by telephone or email.

Telephone: +1-212-768-9886

The Trademark Hotline is available Monday through Friday from 2:00 p.m. to 5:00 p.m. U.S. Eastern Time with a 3 inquiry limit per call (The Hotline is not available on U.S. national holidays).

Email: tmhotline@inta.org

INTA's Trademark Checklist

The Trademark Checklist has been compiled to assist members of the media, authors, writers, proofreaders, copywriters and fact checkers with proper trademark usage. It includes listings for approximately 3,000 U.S. registered trademarks and service marks with their generic terms, as well as proper capitalization and punctuation. It is not an all-inclusive listing of trademarks and service marks and only offers a selection of marks.

The Trademark Checklist can be accessed by visiting: www.inta.org/go/tmchecklist



International Trademark Association
Representing Trademark Owners Since 1878

655 Third Avenue, 10th Floor
New York, NY 10017-5617 USA
t: +1-212-768-9887 • f: +1-212-768-7796
www.inta.org • info@inta.org