Proper Trademark Use

What Is a Trademark?

Just as your name identifies you and distinguishes you from others, a trademark identifies the *source* of a product or service and distinguishes it from the source of other products or services.

Trademarks vs. Service Marks

- In some countries, the term "trademark" refers to a source identifier that is used in connection with <u>goods,</u> while the term "service mark" refers to a source identifier used in connection with <u>services</u>.

- In other countries, source identifiers used with either <u>goods or services</u> are referred to as "trademarks."

What Is a Trademark?

a logo	a slogan	a word
a numeral	a personal name	a scent
a color	a building	a sound
a letter	a device	a shape
a phrase	a package design	a combination of any of these

Examples

- The word
    Apple®

- The name
    Giorgio Armani®

- The device
    ®

- The slogan
    Just Do It®

- The shape of the Coca-Cola® bottle

- The sound of the Yahoo!® yodel

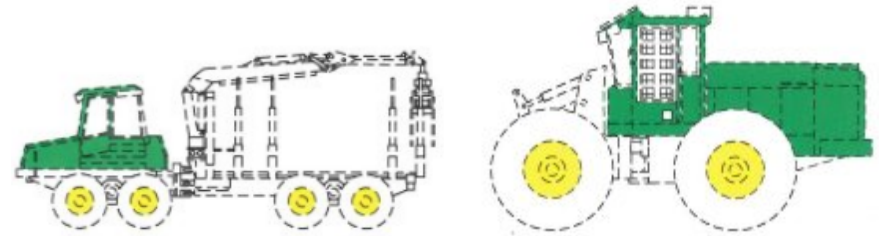- The roar of the MGM lion

More Examples

- The art deco spire of the Chrysler Building® in New York City
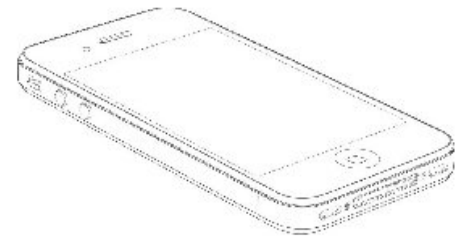
- Tiffany's Robin's egg blue boxes

- The green and yellow colors of John Deere® agricultural and turf equipment

- The shape of Apple's iPhone® device

What Is a Company Name, Trade Name or Business Name?

- "Company name" is the name of a company as registered with the relevant authorities.

- "Trade name" or "business name" is the name used by a company in its business activities.

- A trade name cannot be registered as a trademark unless it functions as a trademark.

    E.g., Apple Computer, Inc. owns Apple®, registered in Class 9 for computers and computer programs.

Which of the Following Terms Are Source Identifiers Capable of Operating as Trademarks?

Saran	Frigidaire
Krazy Glue	Surround Sound
Hoover	Rollerblade
Shredded Wheat	Frappuccino
Esky	Tabasco

The Terms Marked with ®
Are Trademarks

Saran® wrap	Frigidaire® refrigerators
Krazy Glue® adhesives	Surround Sound
Hoover® suction cleaners	Rollerblade® inline skates
Shredded Wheat	Frappuccino® coffee drinks
Esky® coolers	Tabasco® pepper sauce

What Is Proper Use of a Trademark?

Trademarks Are Proper Adjectives

- All trademarks are proper adjectives used to identify the source of the goods or services noun that they describe.

- Trademarks should be followed by a generic term and/or the word "brand":

  Kleenex® tissue
  FORD® truck
  Hoover® brand
  iTunes® application
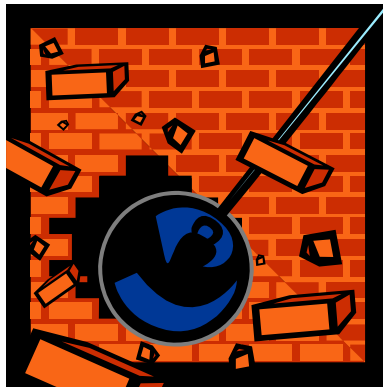
Identification or Status of Trademarks

Trademarks should be marked or offset from the surrounding text:

® or ™ Symbol: Starbucks® coffee	All capital letters: KLEENEX tissue
Quotation marks: "Life Savers" candy	Initial capital letter: Crayola crayons
Italics: *Subway* sandwich	Boldface: **Pampers** diaper

Trademarks Should <u>Not</u> Be Altered

Trademarks should always be used in the same form in the marketplace and should never be altered.

Always Use Proper Trademark Form and Spelling

- Do not deviate from the established registered spelling.

- MONTBLANC® fountain pen, <u>not</u> MONT BLANC

Trademarks Should <u>Not</u> Be Pluralized

- Trademarks that are not registered as plurals should not be pluralized in use.

- Instead, pluralize the generic term (noun) that the trademark describes.

Correct: Five Milk-Bone® dog snacks
Incorrect: Five Milk-Bones

Trademarks Should <u>Not</u> Be Singularized

- Trademarks that end in "s" may be used with singular or plural nouns.

- Do not remove the "s" to singularize these marks.

Correct: A Hershey's Kisses® chocolate

Incorrect: A Hershey's Kiss chocolate

Trademarks Should <u>Not</u> Be Used as Verbs

Incorrect:

- Could you Xerox the report?

- I would like to go Rollerblading.

- Google a good place to eat tonight.

Correct:

- Could you make a Xerox® copy of the report?

- I would like to go Rollerblade® skating.

- Do a Google® search for a good place to eat tonight.

International Trademark Association

PowerfulNetworkPowerfulBrands®

Trademarks Should <u>Not</u> Be Used in the Possessive Form

Trademarks should not be used in the possessive form unless the trademark itself is possessive.

Correct: Levi's® jeans
McDonald's® restaurants
Johnson's® baby shampoo
Febreze® spray's fresh scent

Incorrect: Febreze's® fresh scent

"ACID" Test for Proper Use

A djective

C onsistent

I dentification or status

D istinguished from other text

Why Is Proper Trademark Use Important?

Proper Trademark Use Is Important

1. Consumers use trademarks to identify the source of particular products.

2. Trademarks denote a known quality and a particular brand.

3. Confusion in the marketplace over brand names could cost a trademark owner goodwill and sales.

Proper Trademark Use Is Important (Cont'd)

4. If properly used, registered and enforced, trademarks are one of the few corporate assets that can last forever.

5. Proper notice is important to protect enforcement rights.

6. If a trademark is not properly used, trademark rights can be lost.

How Might Trademark Rights Be Lost?

- If the trademark is not used in a consistent form

- If the trademark is allowed to become generic:

    - Through the manufacturer's own advertising and labeling mistakes. (Example: escalator)

    - Through use as a generic term by the public (the trademark becomes the name of a product instead of denoting the brand)

Which of the Following Were Initially Registered Trademarks?

- Kerosene

- Trampoline

- Zipper

- Escalator

- Cellophane

- Aerobics

- Super Glue

- Yo-Yo

- Aspirin

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They All Were

How Can Trademarks Be Protected?

- License your trademarks with care
- Police and enforce your trademarks
- Use them properly in advertising and on labels
- Submit marks to INTA's [Trademark Checklist](#)
- Review INTA's brochure [A Guide to Proper Trademark Use](#)

Which of the Following Is Correct?

1 - I need to buy a Band-Aid®.

2 - I need to buy Band-Aids®.

3 - I need to buy Band-Aid® adhesive strips.

4 - I need to Band-Aid® my cut.

5 - What is the Band-Aid's® cost?

#3 Is Correct

- I need to buy Band-Aid® adhesive strips.

Thank You