



## FAQS ABOUT TRADE MARKS

*By Michael D Fitzsimons, Solicitor and Trade Mark Attorney*

### What you need to know about trade marks for your business.

#### **What is a trade mark?**

A trade mark is an exclusive claim usually registered over a trade name or logo in respect of specified categories of goods or services that gives its owner the automatic right to prevent the unauthorised use of the same or a similar name or logo for the same or similar types of goods or services in the countries that it is registered in.

Trade marks can be based on colours, symbols and even smells.

#### **Don't I have that right already?**

You do, but only if you can prove in court that your business has already built up goodwill and a reputation amongst its customers and your customers are likely to be confused by the activities of your competitor. This can be a difficult, time-consuming and costly task. The advantage of a trade mark is the automatic rights it confers to prevent infringement without you having to prove the nature and extent of the goodwill, reputation and confusion.

#### **What are some of the benefits of trade marking?**

- It makes it easier, quicker and cheaper to protect your brand and logos, securing their future use to your business and ring-fencing the goodwill and reputation built up by your business.
- It adds value to your intellectual property and your business and can assist in securing investment and potential suitors. Any due diligence performed on your business will investigate the protection afforded to your brand. Trade marks protect your brand the way patents protect new inventions.
- It gives the opportunity for your business to earn income from licensing, assigning or transferring its intellectual property rights, including through franchising and other business networks.

#### **What if I don't register a trade mark?**

If you do not apply for protection, others may benefit from your investments. The only way of securing the full right over a trade mark is by registering it.

#### **Is it expensive to register a trade mark?**

In short, no. There are some small fees payable to the Registrar of Trade Marks to process an application (depending on the range of goods or services to which the mark relates) and then to register the mark. Fitzsimons Redmond offers a competitive fixed fee structure which makes it financially and commercially worthwhile to apply for a trade mark.

#### **Must I specify the goods and services to which the trade mark applies?**

Yes. A Trade Mark does not offer protection over all types of business activities, only those specified. The more types of business specified, the more expensive it is to register and the more likely it is that your application will be opposed. We can help you carefully specify the categories of goods and services to register your trade mark in.

#### **Must I be using the Trade Mark before I register it?**

No, but you must have a genuine intention to put the trade name or logo into use in the categories of goods or services specified.



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**Will my trade mark be protected abroad?**

A trade mark registered in the Republic of Ireland will only give protection in this country. If you are thinking of protecting your trade mark abroad, you can register it as a Community Trade Mark in the specified EU markets that you are focused on in a single application or you can make a registration for protection in other international markets through a single agency. But for international marks you have to make separate applications unlike for the EU wide mark. We can make applications for Irish, Community and International Trade Marks.

**When does trade mark protection commence and how long does it last?**

The date of registration of the trade mark once it is granted is back-dated to the date you filed the application. It can take about nine months for an Irish trade mark application to be registered and longer for Community and international trade mark applications. However, making the application allows you to oppose any subsequent trade mark applications. In Ireland, a registration lasts for ten years and is renewable after that.