



TRADEMARKS



**OFFICE FREYLINGER**  
PATENT AND TRADEMARK ATTORNEYS



# TRADEMARKS

The names of your company, products and services, and your logos are all trademarks in which you invest.

This investment has to be protected through a registered trademark.

## WHAT IS A TRADEMARK?

- a signature enabling your clients to recognise your product or your service;
- a sign distinguishing your company from its competitors;
- the name and logo of your company;
- a way to create customer loyalty;
- an asset that must be protected.

The trademark is above all a fundamental element in a company's strategy that enables a company to maintain or gain market share. The trademark is a vital communication means to identify the origin of goods and services and establish, with the consumer, a relationship based on trust and reputation.

**Your trademark is a precious asset that needs protection and valorisation!**

## WHY APPLY FOR A TRADEMARK?

A trademark is legally protected only after application and registration before the competent authorities. Even if a name has been used for many years, this use does not create a trademark right unless the name is registered.

Third parties may therefore use such a name, and even apply for a trademark for it, which may then be used against the prior user.

### No Application = No Protection

In order to be registered, a trademark must be distinctive, i.e. it must not be :

- generic, descriptive or deceptive; this criteria is to be individually assessed for each trademark;

- identical or similar to the rights of a third party; preliminary searches may assess the risk in adopting a new name.

## WITH YOUR TRADEMARK APPLICATION/REGISTRATION, YOU WILL BE ABLE TO:

- prevent third parties from commercially using your trademark or similar marks for identical or similar products or services, and initiate opposition procedures or legal actions;
- assign your trademark or confer licences to obtain royalties;
- capitalise on your commercial and advertising expenses.

## TRADEMARK WATCH

A trademark watch will enable you to be kept informed of the publication of younger trademarks, which are identical or confusingly similar, to file oppositions to protect your trademark and your investments in the trademark registration.

## OBLIGATION OF USE

An actual and serious use of the trademark is required to maintain it in force. If the trademark is not used, it may be subject to a cancellation action for non-use.

## OPPOSITION PROCEDURE

Oppositions are quick and cost effective administrative proceedings to enforce trademark rights and protect a trademark. Such proceedings are, after publication of a new trademark application, open to third parties in order to protect their prior trademark rights by seeking refusal of this new application if it is identical or if there is a risk of confusion.

Please contact us for additional information or documentation.

## OFFICE FREYLINGER ASSISTS YOU WITH

- determining whether a trademark may be registered
- carrying out searches to reveal potential prior rights
- handling applications up to registration
- advising on possible infringement, drafting and engaging infringement, opposition and cancellation proceedings in the trademark offices and before the specialised trademark courts
- all other aspects in relation to your trademark and other intellectual property rights

This brief introduction is simplified and must not be taken as a definitive statement of the law or practice. Every effort has been made to ensure that the information contained in these pages is correct. However, not every detail of the law is covered. © OFFICE FREYLINGER | 03.2019