

1

## INTRODUCTION

Successful businesses need coherent and comprehensive brand strategies to operate in our rapidly developing business markets.

As global business practices modernise and change, robust brand protection is important for the effectiveness of brand owners.

This summary offers tips for businesses; and sets out relevant factors for brand owners to consider, when planning and establishing branding strategies for new and modern business operations.

## PROTECTION OF IP RIGHTS 2

Brand recognition can arise in many different ways and as a result, brand owners should be flexible in their planning as to how best to protect brands.

First, the key to achieving effective brand protection is through formal registration. This can be registration of trade marks, copyright or registered designs.

Trade mark registration can protect company names, product brand names, logos and designs. Brand recognition can also be extended beyond names, logos and designs; distinctive shapes, colours and sounds can also be considered to be part of a brand. Three dimensional trade marks ("3-D trade marks"), colour and even music (such as recognisable jingles) are also potentially protected through trade mark registration.

Singapore has recently recognised that shapes, colours and music can, in appropriate circumstances, be protected through trade mark registrations. For instance, the "Bombay Sapphire" gin bottle shape has been registered as a 3-D trade mark in Singapore. Trade marks are territorial in reach, so it is necessary to secure protection in each of the countries of interest.

Some distinctive drawings or designs can be protected as copyrighted material. This can also apply to musical works. It is important to note that in some countries, such as Vietnam, although copyrighted material is automatically protected, actual registration of the copyrighted material could prove to be useful to the owner of the copyright as it can remove the burden of proving ownership of the copyright in the event of a dispute.

Brand owners can consider protecting products that are uniquely shaped, through Registered Designs. The shapes of mobile telephones for example, some of which are recognised as symbolic of certain phone manufacturers, could be protected as registered designs.

3

## ONLINE STRATEGIES

With the advent of e-commerce and other opportunities available thanks to the Internet, brand owners cannot afford to ignore using the Internet as a vehicle to create awareness of the presence of their brand.



Internet Searches

Brand names are important for customers who are interested to learn more about a company. Customers often use brand or product names as the search term in an Internet Search Engine.

Internet brand presence can be done in multiple ways: by including brand names and/or product names as part of the domain name of any website; or by inserting company names or product brands as keywords or meta-tags within the web site, as some search engines are designed to locate or direct such terms when searching for web sites.



Social Media

The massive popularity, extensive reach and easy access of social media networks have resulted in an increase in the use of Social Media as a new medium for advertising.

Brand owners can consider running sponsorships or generating interest in their goods and services through sponsored advertisements that are found on social media.



4

## EVIDENCE OF USE IS KEY

Businesses need to use their brand! In most countries within ASEAN, the use of the brand in commercial activity is equally, if not more important, than an existing trade mark registration. This use becomes even more important where there is no existing trade mark registration because the brand owner can only rely on such commercial use as evidence of ownership.

An effective brand strategy includes collecting evidence of actual use of a particular brand.

In the Philippines, Malaysia and Singapore, registered owners have an obligation to use the trademark in commerce. In the absence of any such use, there is a risk that the trade mark registration may be revoked on the grounds of non-use.

Evidence of use is important in enforcement. It is proof of public recognition and brand awareness. In Malaysia, Brunei and in Singapore, where the tort of passing off is recognised, evidence of use of a brand is crucial to show that the brand is acknowledged and recognised by relevant consumers as originating from that particular company.

## CONSTANT MONITORING

5

Finally, brand owners must take responsibility. It is important to monitor the use of the brand by others in order to take action where needed.

Infringers and counterfeiters are becoming more crafty in their activities. Brand owners should look out for names or designs that are confusingly similar, or with only slight variations to the spelling to their original brand names.

Brand owners should also consider engaging professionals to conduct Trade Mark Watch Services, in which searches are conducted on new published trade mark applications. Another way is to keep a vigilant eye on new emerging brands in ASEAN.

6

## CONCLUSION

Modern businesses have a great variety of avenues to advertise and market their brands. A robust branding strategy will support and protect businesses in their work. Proper planning is crucial, and a comprehensive plan, exploring all the different options available, and taking into account long term goals and targets will benefit businesses and help them exploit their value.

For questions or more information contact the UK Intellectual Property Office attaché for the ASEAN region, Christabel Koh.  
[Christabel.koh2@fco.gov.uk](mailto:Christabel.koh2@fco.gov.uk)

Prepared by RHTLaw Taylor Wessing LLP  
23 Apr 2015