

5 Rules to Avoid your Trade Mark Becoming Generic

The legal term for a brand or brand name is “Trade Mark”. The purpose of a Trade Mark is to identify a business or product and to protect and distinguish that business or product from that of its competitors. Properly used and promoted, a trade mark can be a company's most valuable asset.

The exclusive rights to a brand name, gained through its registration as a Trade Mark, can be lost through careless and improper use. This can happen if the public treat or come to regard the brand name as the common name for a particular type of product or service. If your trade mark becomes generic it can be used by anyone. Some former brand names which are now generic, or common product names include ASPRIN, NYLON and ESCALATOR.

History shows that a manufacturer's own advertising or labeling frequently is at fault when a trade mark is lost by conversion into a generic term. It is imperative therefore that those involved in marketing, particularly in promotion and advertising, are aware of the importance of correct and proper use of brand names.

FRKelly advise that you try to adhere to the following 5 rules so that your trade mark is not added to the generic list.

1. Stand Out

A brand should always stand out from the works surrounding it. Using capital letters, bold type, colour or quotation marks or a combination of the above can help to do this. Whenever possible use the correct logo style.

✓ **FRKELLY's** Services

✗ FRKelly's Services

✓ **FRKelly's®** Services

✗ FRKELLYS SERVICES

2. Use Symbols

Where possible, indicate trade mark rights at least once in the text by placing the appropriate symbol or legend beside the Trade Mark. The appropriate symbol is [™] where the Trade Mark is not registered and ® where registration has been obtained (some companies chose to just put [™] on all brands to avoid confusion)

3. Use a Product Description

Always accompany the Trade Mark with a product description

- e.g. Wear **LEVI'S** jeans
 Eat **KELLOGG'S** cornflakes
 Shop at **CENTRA™** stores

A trade mark identifies a particular brand of some product; it is not the name of the product itself and therefore is not a noun. It is an adjective and should always be used in association with a product name or generic name. If you are not sure whether you have used a trade mark as an adjective, try removing the trade mark from the sentence. If the sentence still makes sense you have probably used the trade mark correctly.

4. Be Consistent

Never vary, mis-spell or truncate your brand names. If you alter, distort, re-design or produce your brand name using colours or letters other than those specified in your current brand name/logo you could jeopardize the protection of the brands and/or cause confusion for your customers.

- | | |
|---------------|---------------|
| ✓ Super Valu™ | ✗ Super Value |
| | ✗ S.V. Range |

5. Separate Different Brands

Where main brands are being used in combination with sub-brands, it is important to ensure that each brand retains its separate identity and that the sub-brand is not confused with the product description.

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| ✓ Do your wallet a favour, open a GATEWAY™ account from BANK OF IRELAND |
| ✗ Do your wallet a favour, open a Bank of Ireland Gateway account |

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