

“ Plain speaking legal advice ”

How To Make Your Mark

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Prior to December 2007, the Intellectual Property Office ('IPO') would refuse an application for the registration of a trademark where its search of the trademark registry revealed a conflicting mark. This is no longer the case and the IPO will now no longer refuse to register a trademark where a conflicting mark is registered unless the holder of the earlier mark successfully opposes the application.

The process of challenging an application is relatively straightforward and is something that we are always happy to offer advice and assistance with.

Strict time limits govern the timescales within which a notice of opposition to an application for registration of a trademark must be filed. Trademark owners beware, an application will be accepted if no objections are received by the relevant date.

However if the deadline for opposition to registration of the trademark is missed, it is still possible to challenge the validity of a trademark once it has been registered if, for example, the trademark is considered to be too generic.

The changes mean that it is now more important than ever for trademark owners to monitor new applications for registration to ensure that the goodwill and trading reputation associated with their businesses is not exploited by third parties registering trademarks which conflict with their own marks. To help trademark owners we offer a comprehensive monitoring service which makes checking up on trademark applications simple and hassle free.

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Trademark holders can take other simple steps to protect their trademarks such as ensuring that the IPO has their most up to date address, which will help to ensure that they actually receive any notices of potentially conflicting marks. Holders of EU trademarks should also ensure that they have 'opted in' to receiving such notices as they will not be received by default. If you receive such a notice, you should consider taking legal advice without delay.

Intellectual property, such as trademarks, patents and copyright, are a valuable element of most businesses and if you have not already done so, you should be taking steps to protect these assets of your business.

Please do not hesitate to contact a member of the corporate and commercial team on 0118 9774045 or via e-mail corporate@herrington-carmichael.com for further information as to how best to protect your intellectual property rights.

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