



Canadian
Intellectual Property
Office

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What's in a name?


Using trade-marks as a
business tool



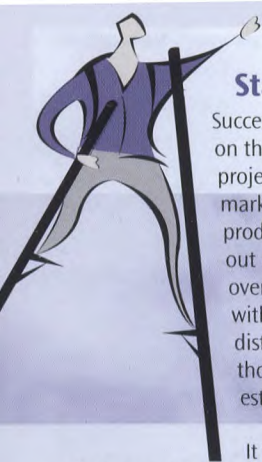
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Stand out in the crowd

Success in the business world depends largely on the message you convey and the image you project, especially in today's competitive global marketplace. Even if you offer an excellent product or service, if people can't pick you out easily in the crowd, they'll probably overlook your business in favour of one with a greater presence. Your trade-mark distinguishes your wares and services from those of your competitors, and helps to establish your identity in the marketplace.

It is a wise business decision to obtain legal proof of ownership of your trade-mark. Ideally, to do this, you should apply to register your trade-mark with the Canadian Intellectual Property Office (CIPO).

Your trade-mark can be a valuable business asset

Trade-marks have come to represent not only actual wares and services, but also the reputation of the business. Some companies spend millions of dollars nurturing their corporate identities.

Did you know that:

- companies like Michelin, Levi Strauss and Intel consider their trade-marks their most valuable assets?¹
- the President of Coca-Cola stated that the corporation's buildings, machinery, equipment, vehicles and physical property could all be destroyed, but that the business would have no trouble getting back on its feet, provided the trade-mark survived?²

Check it out!

Every time you include your trade-mark on posters, boxes, packaging or in promotions, you are investing in it. Whether you are just starting out in business or are already well established, it pays to know about trade-marks. Registering your trade-mark is part of working strategically in today's fast-paced world.

According to the International Trademark Association, the average person sees or hears more than 1,500 trade-marks every day.

The world's 10 most valuable brands

Rank	Brand	2003 Brand Value (US\$Billion)
1	COCA-COLA	70.45
2	MICROSOFT	65.17
3	IBM	51.77
4	GE	42.34
5	INTEL	31.11
6	NOKIA	29.44
7	DISNEY	28.04
8	McDONALD'S	24.70
9	MARLBORO	22.18
10	MERCEDES	21.37

Data: Interbrand Corp., J.P. Morgan Chase & Co., Citigroup, Morgan Stanley³

KLEENEX, HEINZ, BELL CANADA AND BOMBARDIER

These are recognized trade-marks that you would never think of using for your products or services because you would be infringing on them. There are, however, many other registered trade-marks you probably aren't aware of — in any one year alone, CIPO registers approximately 17,000 trade-marks.

The first step is to search the Canadian Trade-marks Database, available free of charge, on CIPO's Web site, to:

- find out if you are unknowingly using someone else's trade-mark; and
- learn about your competitors and the wares and services they offer.

Company/business names and my trade-mark — what's the difference?

A company name, provincial corporate name or federal corporate name is the legal name of the company/corporation.

A business or trade name is the name under which the business operates and carries on business. A business may use its company/corporate name or a portion thereof as its business name. Alternately, a company/corporation may decide to use a separate business name.



A trade-mark is a word, symbol or design, or combination of these, used to distinguish the wares or services of one person or organization from those of others in the marketplace. Only registration of a trade-mark gives its owner exclusive rights of use throughout Canada under the Trade-marks Act — it is a legal title to protect your intellectual property.

For example:

You own an ice cream business and your company is called ABC Ltd.:

Example 1: People know your ice cream under the name ABC Ltd., because you use it as a trade-mark on or in association with your ice cream. You can, therefore, apply to register ABC Ltd. as a trade-mark.

Example 2: People know your ice cream under the word you have promoted, for example, “Northpole.” Even though the official name of your company is ABC Ltd., no one associates this name with your ice cream. Therefore, ABC Ltd. cannot be considered a trade-mark unless you begin to use it as one. You may, however, apply to register “Northpole” as a trade-mark.

Protect your corporate identity against fraud!

Others may be tempted to copy or imitate the marks of successful competitors. Outsmart them and protect yourself: register your trade-mark! A registered mark can be a reassuring title of ownership in the event of a legal dispute. Even if your products or services are not yet on the market, you may file now based on an intention to use.



Registering a trade-mark pays for itself!

Franchisees may pay large sums of money for the rights to use a name, a concept, or recipes — commonly referred to as “know-how.” Companies may buy other companies for their know-how, reputation, and name. “Big-name brands are in demand, and companies are willing to pay huge amounts for the instant recognition and market access they afford. [...] As the costs go up, so does the importance of protecting brand identity.”⁷⁴ Intellectual property can be a highly-valued asset for sale or purchase. In order for you to profit by selling your intellectual property, we recommend that you register it to prove that you are the owner. CIPO charges a modest fee for registering a trade-mark. This gives you exclusive rights to use the mark across Canada for 15 years and can be renewed every 15 years thereafter upon payment of a renewal fee.

**Know
yourself
but know your
competitors
better**

Search the Canadian Trade-marks Database, available free of charge at www.cipo.gc.ca to:

- ensure you do not use someone else's trade-mark;
- learn more about your competitors and gain valuable corporate intelligence;
- follow trends in the industry;
- manage your intellectual property assets; and
- so much more....

Avoid hassles...

If someone registers a trade-mark that is the same as the unregistered one you are using, you could end up in court wasting time, energy and money on legal disputes instead of doing business.

Thinking of exporting?

If you plan to export your wares or services one day, make sure that the mark you plan to use is not already registered in the countries in which you plan to do business. In order to use this same mark in all markets, you must obtain protection in each of these countries.

Need more details? Visit our Web site or contact us. You may also wish to discuss with your own legal and business advisors as to the advantages of registering a trade-mark.

Visit our Web site at www.cipo.gc.ca to:

- find out how to register a mark;
- consult *A Guide to Trade-marks* and other publications;
- conduct a preliminary search using the Canadian Trade-marks Database;
- complete and submit your application for registration online;
- review the fee schedules;
- become informed on other interesting intellectual property matters; and
- discover corporate intelligence.



1. Financial World, August 2, 1994
2. Jean-Pierre de Chalais, The South African Institute of Intellectual Property Law, Newsletter No. 53, December 1995
3. BusinessWeek, August 4, 2003
4. John Schofield, Brave New Brand, Maclean's, May 18, 1998

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