

Trade Mark Selection Tips and Tricks

Michael Buck

In the last edition of *Boating Business*TM Barry Eagar gave an overview of the requirements for registering a trade mark and explained the benefits that registration brings.

This month I want to take a step back and explain a little about the principles behind selecting a trade mark in the first place.

Principle No. 1 – Building a strong brand with a descriptive trade mark is an uphill battle

First of all, do you know what each of the following trade marks is used to sell?

Evinrude®

Nike®

iPod®

Mercedes-Benz®

Rolex®

Whirlpool®

Dominos®

Starbucks®

As you probably recognized, each of the above trade marks is very well known. They are respectively used to sell outboard motors, sportswear, MP3 players, luxury cars, luxury watches,

washing machines, pizzas and coffee.

What do you notice about each of them? Well, none of them describe what they sell.

The golden rule for brand selection that can be learned from the above list is that strong trade marks aren't descriptors of the products that they are used to sell. I'll go over that again because it's incredibly important.

If you're in the process of selecting a trade mark, steer clear of words, phrases or logos that clearly describe the product which it will be used to sell. I know that many of you will be saying to yourself "that doesn't make sense". "Surely", you may be thinking, "if the trade mark describes the product then that will help to make sales".

However, you must remember that the function of a trade mark isn't to describe your product to potential customers. Your brochures, website and salespeople will explain the features and advantages of your product much better than a single word or short

phrase in the trade mark could. The function of the trade mark is to stand out, catch the user's attention, persist in their memory and be easy for them to say when they want to ask for your product. More concisely, the function of a trade mark is for your business to own a little piece of real estate in your customers' heads so that when they think of your product your trade mark will come to mind.

The simple fact is that a word or phrase which clearly describes the features of your product will be used by your potential customers in relation to your competitors' competing products as well. It won't be a trade mark that consumers associate with your product and your business alone. Consequently, and somewhat paradoxically, it is easier to build brand recognition for a trade mark that is not directly descriptive of the products that it is used to sell.

Here are a few more examples:

Budget® is a much better trade mark than *Cut Price Cars*

Lexus® is a much better trade mark than *Luxury Motors*

Intel® is a much better trade mark than *Intelligent Chips*
Blockbuster® is a much better trade mark than *The Video Place*

Get the idea?

Principle No. 2 - Optimise your trade mark for legibility, colour and shape.

Your trade mark is the "handle" by which customers request your goods and services. If it is difficult for customers to say your trade mark, recognize your trade mark or remember your trade mark then your business will be at a disadvantage.

Two factors that make a trade mark easy for a potential customer to use are:

- the sound of the trade mark.
- the visual appearance of the trade mark

The sound of the mark.

Don't choose a tongue twister for your trade mark. For example, think of Rolex®, Nike® and iPod®. Each of them is relatively short and extremely easy to say. It's hard to say any of them unclearly because they all include contrasting vowel and consonant sounds close together.

If you are thinking of exporting your brand overseas then make sure it doesn't have any negative connotations in the foreign countries you're interested in. For example, the trade mark SQUIRREL has positive connotations in Australia however in North America squirrels are often thought of as a nuisance and so the trade mark might not be suitable in that market. These sort of issues need to be considered right at the beginning of the trade mark selection process.

The look of the mark

First of all, choose an easy to read font. Some fonts are supposedly more masculine or feminine than others and some fonts are more old fashioned or modern than others. The type of font you choose should appeal to your prospective consumer demographic but not at the cost of legibility.

The aspect ratio of your trade mark (width : height) should preferably be about 5:4 so that a viewer can read it very quickly in one take without having to move their eyes. Trade marks

that are very wide and narrow or tall and thin are difficult to read.

Trade marks are often accompanied by a logo, for example until about a decade ago a particular brand of service station always included an image of the flying red horse Pegasus on all its signage. Can you remember which brand of service station, e.g. was it Caltex® or Ampol® or Mobil® ?

It was Mobil®. Mobil® petrol stations used to have an image of Pegasus above the word MOBIL. Would you say to someone in search of a petrol station "go to the flying red horse petrol station" or "go to a Pegasus petrol station", or "go to the Mobil petrol station"? Probably only the last phrase would be used. As you can see, the logo is usually not nearly as important as the wording of the trade mark and in fact using a logo can sometimes reduce the impact, and hence the memory recall, of the wording.

Mobil dropped the flying horse and now simply use the trade mark Mobil® in blue letters with a red "o". The change has increased the visibility of their signage and decreased confusion over exactly what the meaning of the flying horse

was. By focusing on the wording they've strengthened their trade mark.

There are only a very few simple symbols that make effective trade marks. For example, the double R for Rolls Royce® and the three pointed star in a ring for Mercedes-Benz® have both become powerful graphic trade marks. However, it has taken decades to build up the power of those symbols.

If you're launching a new trade mark then a distinctive word mark will usually be a much better option than a graphic.

...select a trade mark that connects with potential customers to the extent that it "pre-sells" your products.

Principle No. 3 - Use colors to distance your brand from your major competitors.

Designers and marketers commonly choose a brand's color scheme so that it is either in harmony with the products that they are selling or selected to evoke a particular mood in the prospective customer. While it makes sense to take these factors into consideration it is equally if not more important to take your competitors' color schemes into account when deciding on colors for your own brand.

For example, Coca-Cola®, the founders of the cola drink category, have a color scheme that is primarily red. For many years Pepsi® had a

color scheme that was equally red and blue. However, incorporating a color synonymous with their main competitor into their branding did not help to distinguish them from Coca-Cola®. Consequently, over the last decade you will notice that Pepsi's branding colors have become more blue and far less red.

Summing Up

Trade marks are critically important business assets. Careful selection and development of a trade mark can help your business secure a brand that connects with potential customers to the extent that it "pre-sells" your products. Effectively, they buy the brand, not just the product. On the other hand, selecting the wrong trade mark can put you on the back foot right from the start.



Michael Buck is a registered Patent and Trade Mark attorney and partner of ENB® - Eagar & Buck Patent and Trade Mark Attorneys. Michael is also a director of the firm's *Branding Iron*® trade mark selection program. Michael welcomes email queries or comments to mbuck@enb.com.au.